CORNELL
LAW FORUM

SPRING 2006

What's Wrong with Being Creative and Aggressive?
Habeas Corpus and Enemy Combatants
The Court's Purpose: Secular or Anti-strife?
Summer Law Institute in Suzhou, China

Cornell University
Law School
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A Note from the Dean

Dear Alumni and Friends,

The excellence of Cornell Law School has many dimensions, including our talented student body, who transform regularly into amazing alumni, and our overall sense of a supportive and intellectually rich community. Undoubtedly a key element is our wonderfully productive faculty.

Regeneration of the faculty is crucial to maintaining the Law School’s quality. This issue showcases five of our newer faculty members—John Blume, Bob Hockett, Bernie Meyler, Trevor Morrison, and Brad Wendel. Each is a remarkable and individual talent. Collectively they give us renewed vitality. After reading their work and profiles, you will understand how fortunate our students are to be able to study with such resourceful and probing people.

New professors face a daunting challenge. In large law firms, associate lawyers are brought along slowly (sometimes frustratingly slowly). They would never first chair a trial, for example, in their early years. Yet we immediately call upon our beginning professors to create and teach their own courses, and to embark on their own scholarly agendas. It requires energy and imagination as well as a keen intellect to pull off the task.

Some might ask why the law school hires entry-level faculty, rather than recruit established teachers from other faculties. Of course, we do hire laterally, and with great success. About half of our current faculty first taught at other law schools. But our community benefits greatly by nabbing talented young scholars who are just starting out and offering them the opportunity to grow and develop here.

Their success requires strong mentoring and a supportive community. I well remember when I began as a new professor at Cornell nearly a quarter-century ago. My mentors included Dean Peter Martin and rising stars such as Greg Alexander, Kevin Clermont, Bob Hillman, and Ted Eisenberg, plus more established figures like Jack Barcelo, Jim Henderson, Faust Rossi, and Bob Summers. My fellow untenured faculty, including Cynthia Farina, Sheri Johnson, and John Siliciano, provided great support. Remarkably enough, each of these people is still here, and continues to mentor new faculty as they arrive. A great strength of Cornell Law School is the gradual transformation of our faculty over time, passing the baton while maintaining our commitment to inspiring teaching, cutting-edge scholarship, and a nurturing intellectual community.

That continuity and regeneration will be emphasized in a few short weeks when many of our alumni return for reunion to reminisce about the time their favorite professor (be it Dean Stevens, Professor Schlesinger, or the giants still with us) called on them that day in class, or gave them wise counsel in the halls. It is a tribute to Cornell that each new generation of alumni has wonderful stories to tell.

This issue of the Forum shows the depth of our community from faculty scholarship and the varied activities highlighted in our news section, to the work of our active and illustrious alumni. In addition to articles about newer faculty, two alumni and two student profiles in this issue illustrate the variety and vitality to be found among our community.

Cornell Law School is an amazing place, a whirlwind of activity and learning.

Happy reading!

Stewart J. Schwab
Allan R. Tessler Dean and Professor of Law
When I tell people that I am a law professor specializing in legal ethics, they usually have one of two reactions: “Legal ethics—that’s an oxymoron!” or “I bet you always have a lot to do.” The second reaction is the more interesting of the two, because it rightly implies that legal ethics is a fascinating field, in part because lawyers are always thinking of new ways to get into trouble. The academic discipline of legal ethics got a substantial boost from the Watergate scandal, which led to the ABA’s mandate that all law students take a course in “the history, goals, structure, duties, values, and responsibilities of the legal profession and its members . . . .”¹

In academic terms, however, Watergate was fairly straightforward—the participants engaged in outright criminal wrongdoing. In the words of former White House counsel John Dean, “I knew the things I was doing were wrong, and one learns the difference between right and wrong before one enters law school.”² In other words, the lawyers caught up in the Watergate scandal were simply crooks. And if the norms we call legal ethics were simply aimed at restraining crooks, the subject would not have much intellectual vitality independent of the subjects of criminal and regulatory law. In fact, many run-of-the-mill lawyer disciplinary cases involve simple wrongdoing, such as stealing from client funds, which does not present conceptually interesting issues.

Contemporary high-profile legal ethics scandals, by contrast, are made considerably more complicated by the attempt by lawyers, at least on a superficial level, to comply with the law. Think of any embarrassment to the legal profession from the 1980s or 90s—the savings-and-loan crisis, the proliferation of abusive tax shelters, or the financial accounting debacle at Enron—and in each case highly sophis-

What's Wrong with Being Creative and Aggressive?

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two law professors from the University of Chicago dismissed the criticism of their authors as the failure to appreciate that the government lawyers were simply giving legal advice. The memos were “standard fare, routine lawyerly stuff,” they argued.5

The Enron collapse and the torture-memo controversy present one of the central challenges for legal ethics—differentiating the act of aiding and abetting wrongdoing from transactional counseling and planning that avoids legal liability in a legitimate way. In the parlance of tax lawyers, the issue is how to locate the line between avoiding legal penalties (acceptable) and evading the law (unacceptable). Lawyers sometimes forget that it is not a sufficient defense to legal liability for a lawyer to point out that he or she was acting in a professional capacity, doing the sorts of things that lawyers do. It is well established that a lawyer may be civilly or criminally liable for conduct that is in many respects indistinguishable from typical “lawyer work,” such as preparing opinion letters to be used in closing financial transactions.6 As a matter of generally applicable criminal, tort, and regulatory law, if the lawyer knows facts from which a reasonable person would conclude that the client’s proposed course of action is criminal or fraudulent, the lawyer may have a duty to avoid assisting that conduct. In addition, lawyers are separately prohibited by state disciplinary rules from counseling or assisting a client’s unlawful conduct.7

At this point some lawyers might object that it begs the question to analyze the lawyer’s liability in terms of whether the client’s proposed course of action is criminal or fraudulent. The law may be sufficiently manipulable that a clever lawyer will be able in almost all cases to make a straight-faced argument that the client’s conduct was lawful. Or, the law may simply be understood in terms of what the client can get away with. This perspective is known in legal theory as the “Holmesian bad man” stance, after Oliver Wendell Holmes’ definition of the law as a prediction about how legal officials might decide particular cases, illustrated through the metaphor of a “bad man” who is interested only in avoiding legal penalties that might attach to his conduct.8 The trouble with the Holmesian bad man stance is that it drains all normativity from the law. The fact that something is a legal norm is not itself a reason to act; it is merely a datum that a lawyer will take into account in predicting whether an official will sanction her client’s conduct. Perhaps some system of social control could work in this way, but it would not be recognizably a system of law.

A statement about what the law requires is inherently a statement about a standard of behavior that others in a social group believe to be obligatory. This means that a lawyer engaged in the process of interpreting and applying the law must take into account the expectations of other lawyers and judges who are concerned with the meaning of the relevant legal norms. The expectations of these other participants are very likely not structured only around the variety of superficially plausible readings of the text of a statute or regulation that could be concocted by a clever lawyer. Rather, the community of interpreters also relies on considerations such as the overall sense of purpose or function that a given regime of rules possesses. If this all sounds obscure, it may be useful to consider the process of interpreting legal norms in the context of specific cases.9

Structured Finance
Transactions at Enron

The transactions designed by Enron employees, along with outside accountants and lawyers, were mind-bogglingly complicated in their details, but fairly simple in theory. The idea was to move debt off the balance sheet of Enron and onto the books of an unrelated entity in order to prop up Enron’s credit rating and enable it to continue borrowing at low interest rates. There are a variety of legitimate ways to accomplish
this goal, but as Enron’s financial condition deteriorated, it needed to continue hiding debt. It therefore put pressure on its lawyers and accountants to figure out novel ways to structure off-balance-sheet financing transactions, even if they seemed to be pushing the boundaries of acceptability. Like any other reasonably complex regime of legal norms, the rules governing the accounting treatment of corporate transactions have an underlying sense and rationale, but the spirit or purpose of the rules is expressed by detailed textual provisions that are subject to manipulation. Eventually, the pressure by upper management to bend the rules to accommodate preferred transactions led to the kind of abuse that is colorfully illustrated by a former Enron employee:

Say you have a dog, but you need to create a duck on the financial statements. Fortunately, there are specific accounting rules for what constitutes a duck: yellow feet, white covering, orange beak. So you take the dog and paint its feet yellow and its fur white and you paste an orange plastic beak on its nose, and then you say to your accountants, “This is a duck! Don’t you agree that it’s a duck?” And the accountants say, “Yes, according to the rules, this is a duck.” Everybody knows that it’s a dog, not a duck, but that doesn’t matter, because you’ve met the rules for calling it a duck.10

The point of this illustration is that eventually, as a purported interpretation of law becomes too detached from the underlying rationality of the rules, it becomes, clearly, flimflam, and can be recognized as such by any competent observer. Everyone knows a dog is still a dog, even with the pasted-on beak. Similarly, a bogus off-balance-sheet financing transaction can be characterized as abusive, despite superficial compliance with the financial accounting rules. A legitimate transaction of this nature involves a genuine transfer of ownership of an asset from the originating company (Enron) to a special-purpose entity. For there to be a “true sale” of an asset, the originating company may not have any recourse against the originating company in the event of bankruptcy of the special-purpose entity.11 Although it is possible to create elaborate transactions that simulate the transfer of ownership, a competent lawyer or judge can evaluate the transaction to determine whether ownership of the asset was actually transferred. In many of the Enron transactions, there were side-agreements or quirky options provisions that had the effect of permitting Enron to retain control over the asset. Moreover, the whole point of structured finance transactions using special-purpose entities is to reduce transaction costs by removing banks and other intermediaries from the financing process. The numbing complexity of the Enron transactions—which were, naturally, costly for lawyers and accountants to create—suggests strongly that the off-balance-sheet deals were not reducing the costs of obtaining financing, which would have been a legitimate use of structured finance, but were being used for some improper purpose.

None of these reasons is sufficient in itself as a basis for concluding that the Enron special-purpose entity transactions were a sham. But the reasoning process is important here, because it shows that the conclusion that some purported duck is really just a dog with a pasted-on beak is not merely a gut reaction. Distinguishing dogs from ducks is not just a matter of saying, as Justice Stewart famously remarked about pornography, “I know it when I see it.” Instead, it is the conclusion of an argument made on the basis of the structure and purpose of the legal and accounting

Lawyers have an obligation to treat the law with respect, and not merely as an inconvenient obstacle to be planned around in furtherance of their clients’ ends.
rules in question—that is, a process of interpretation that is sensitive to the substance of rules and not only the words of a statute or regulation. Thus, we can conclude that the lawyers working on the special-purpose entity transactions for Enron failed to comply with the actual law, even while they pretended to comply with the apparent law. Note, too, that the argument here does not make reference to some amorphous standard like the public interest.

Lawyers serve clients, not the public directly, although in an important sense they respond to the needs of the public indirectly by serving as custodians of the law. As caretakers, lawyers have an obligation to treat the law with respect, and not merely as an inconvenient obstacle to be planned around in furtherance of their clients’ ends. In the litigation context, a lawyer may be justified in taking a relatively more aggressive stance toward the law, for example, by making a non-frivolous argument that the client’s conduct was not unlawful. Transactional practice is not adversarial litigation, however, and lawyers should not assume that the obligation of “zealous advocacy within the bounds of the law” permits them to base legal conclusions they set out in opinion letters on positions they would be permitted to take in litigation. Thus, while a certain amount of creative and aggressive advocacy may be permissible in litigation, the Enron lawyers erred by assuming that pushing the edge of the envelope, so to speak, was acceptable in seeking to obtain favorable accounting treatment for their client’s structured-finance transactions.

Legal Restrictions on Torture

The invasion of Afghanistan in the wake of the September 11th attacks resulted in the capture of numerous detainees with possible al-Qaeda affiliation, who might have possessed information on the structure of the organization, personnel, or even future terrorist attacks. The Bush administration was therefore faced with an urgent question regarding the limits it should impose on interrogation techniques. Officials in the Department of Defense and advisers to the president naturally turned to lawyers to interpret and apply the domestic and international legal norms governing the treatment of prisoners. The resulting memos, prepared by the Justice Department’s Office of Legal Counsel, were leaked to the press and quickly dubbed the “torture memos.” The memos consider a wide range of legal issues, from whether the Geneva Convention protections afforded to prisoners of war extend to suspected Taliban or al-Qaeda detainees, to whether the President’s power as Commander in Chief could be limited by an act of Congress criminalizing mistreatment of prisoners. One of the most notorious memos concluded that certain methods of interrogation might be cruel, inhuman, or degrading, yet fall outside the definition of prohibited acts of torture. Moreover, even if an act were deemed torture, the memo concluded that it might be justified by self-defense or necessity.

Where the government lawyers’ arguments took a wrong turn was in adopting an artificially narrow perspective on the legal issues, focused only on particular legal texts divorced from their historical and policy contexts. Administration officials referred repeatedly to the novel nature of the conflict with al-Qaeda, implying that the law ought to be interpreted less rigorously. This argument is blocked, however, by specific provisions in the international law against torture. The United Nations 1984 Convention Against Torture contains a non-derogation provision, which bluntly states that “[n]o exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture.”12 The non-derogation language was included specifically to

An employee carries a box from the offices of Enron in downtown Houston as the company teetered on the edge of bankruptcy in 2001. Enron’s bankruptcy remains the corporate world’s largest, with costs estimated at $780 million.
prevent states from attempting to define a category of crimes so dangerous to society that law enforcement officials should be permitted extraordinary latitude. The enactment history of the 1984 Convention shows that an argument from the unprecedented nature of the conflict with al-Qaeda is simply going to be a nonstarter. States frequently try to justify torture as a reasonable self-defense measure against an extraordinary threat, which is precisely why the non-derogation provision was included in the Convention.

Not only did the government lawyers exclude moral, policy, and historical considerations from their analysis, but they ignored other clearly relevant legal texts, as well as traditional techniques for interpreting texts. Consider, for example, the memorandum which concluded that an act constitutes torture under a federal statute only if it causes severe physical or mental pain or suffering, with “severe” defined in terms of other federal statutes defining a medical emergency for the purpose of establishing a right to health benefits. It is, to put it mildly, peculiar to make an argument drawing an analogy between “severe pain” for the purposes of a statute prohibiting torture and another statute defining a medical emergency as involving a “serious dysfunction of any bodily organ or part.” The health benefits statute notes, almost in passing, that in an emergency the patient will exhibit symptoms including severe pain. This is not a definition of severe pain in terms of organ dysfunction. It is a definition of emergency in terms of organ dysfunction with possible accompanying severe pain. Surely they are better analogies for the criminal prohibition on torture than the statute authorizing health benefits for patients experiencing a medical emergency.

This style of argument strongly suggests that the lawyers had a motive other than providing their client with an impartial and objective analysis of the law. There is nothing wrong with advising a client to take a novel or creative position under existing law, in the hope that a legal official might treat the client’s position favorably. If transactional lawyers were permitted to give only the most conservative legal advice, a significant avenue for legal change would be closed off. If a lawyer’s advice is creative and the client’s position is unlikely to prevail, however, the lawyer has an obligation to explain this clearly to the client, so that the client can decide whether to incur the risk of an unfavorable ruling. One of the striking things about the whole set of Justice Department memos is that they do not acknowledge how far out of the mainstream their position is with respect to executive power, the application of international legal norms, the construction of federal statutes, and other legal issues they address. Two of the defenders of the government lawyers argue, in effect, that the position taken in the memos, particularly with respect to executive power, is so cutting-edge that it has wrongly been thought crazy rather than innovative. The trouble

The critique is that the lawyers failed to live up to their obligation to respect the law.

In a photograph from February, a U.S. Army doctor holds an external feeding tube that is being used to feed five detainees that have been on a hunger strike for over sixty days. U.S. Army Brigadier General Jay W. Hood, Commander Joint Task Force Guantanamo, said that the United States could not stand by and let people commit “suicide” while in their care. Detainees are being fed through their noses via a polyurethane feeding tube.
with this defense is that nowhere in the memos do the authors flag the argument as a challenge to received wisdom. Instead, it is presented without qualification, almost blandly, as a factual report on what the law is, not what it might be if the innovative arguments of the authors were accepted.

Conclusion

In both the Enron and torture cases, the Holmesian bad man interpretive stance caused lawyers to give deficient legal advice. The ethical critique of the lawyers’ actions is not that structured-finance transactions are bad (they’re probably useful, on balance) or that torture is evil (it is, but government officials still need advice on what sorts of interrogation techniques short of torture are permissible). Instead, the critique is that the lawyers failed to live up to their obligation to respect the law. There are situations in which lawyers are permitted, even required, to make creative and aggressive arguments. Outside the context of adversarial litigation, or transactions in which the lawyer’s novel interpretation of the law is clearly disclosed to other parties and to regulators, lawyers share some of the responsibility ordinarily assigned to courts: that is, to ensure that the law is interpreted and applied sensibly, with due regard to its underlying purpose and rationality. The lawyers in these cases were not crooks, in the sense of openly disregarding the law. The wrongdoing in the Enron and torture memos cases was much more subtle, involving superficial compliance with the law, but a fundamental disregard for the law as a legitimate source of constraint on the actions of clients. Teachers of legal ethics must therefore address the problem of excessive creativity and aggressiveness by lawyers who claim to be guided by the law, or we can expect more professional failures such as these.

1. American Bar Association Standards for the Approval of Law Schools, Standard 302(a)(5).
4. The memos are reprinted in The Torture Papers: The Road to Abu Ghraib (Karen J. Greenberg and Joshua L. Dratel, eds., 2005).
15. The state bar disciplinary rules in effect in most jurisdictions require a lawyer to “explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.” Model Rules, supra, Rule 1.4(b).
16. See Posner & Vermeule, supra.
Like any period of heightened risk to the country, the war on terror raises a host of questions about the constitutional tradeoffs between individual liberty and national security. Questions involving “enemy combatants” are among the most vexing. May the government apprehend individuals and place them in indefinite detention, without charge, based only on allegations that they are enemy combatants? If so, under what circumstances? These first-order questions are accompanied by equally challenging second-order issues: Who should decide the permissibility of enemy combatant detention, and according to what standards?

The Supreme Court addressed these matters in a trio of 2004 cases, but in doing so it raised at least as many questions as it answered. That was especially true in Hamdi v. Rumsfeld, a habeas corpus-based challenge to the executive branch’s detention of a U.S. citizen alleged to be an enemy combatant. The case divided the Court, producing four opinions in all. Two of them—a plurality by Justice O’Connor and a dissent by Justice Scalia—are particularly intriguing, especially when read against one another. Although both opinions adopted positions substantially favoring the alleged enemy combatant, they did so in radically different ways, reflecting starkly opposed constitutional visions.

Many of these differences have been overlooked in the commentary on Hamdi. Yet they are worth examining. Indeed, the divisions that Hamdi produced, combined with recent changes in the Supreme Court’s personnel, suggest that the Court has not yet reached a point of stability in this area. To the extent the opinions of Justices O’Connor and Scalia reflect different approaches to the first- and second-order questions described above, careful consideration of the opinions may help us chart a sensible approach going forward.

The Institutional Process Approach

Before examining the Hamdi case itself, it is useful to survey how U.S. courts have approached cases pitting liberty against security more generally. Historically, courts called upon to decide such cases have tended to adopt a process-oriented approach. That is, they have typically refused to accord the executive branch broad, unilateral power to undertake any emergency measures it wishes on its own, and they have also declined to enforce an aggressive vision of civil liberties that makes no room for emergency measures.
Instead, courts have adopted an institutionalist approach that encourages Congress and the President to work together to respond to national emergencies. Justice Robert Jackson’s concurring opinion in the 1952 case *Youngstown Sheet & Tube Co. v. Sawyer* provides perhaps the most famous articulation of the institutionalist approach. As he put it, “When the President acts pursuant to an express or implied authorization of Congress, his authority is at its maximum.” When, in contrast, “the President takes measures incompatible with the expressed or implied will of Congress, his power is at its lowest ebb.” And “[w]hen the President acts in absence of either a congressional grant or denial of authority,” he occupies a “zone of twilight in which he and Congress may have concurrent authority, or in which its distribution is uncertain.” Within this three-tiered framework, a President claiming extraordinary powers to respond to national emergencies is on strongest ground when acting pursuant to congressional authorization, and on weakest ground when attempting to override congressional prohibition. In short, legislative authorization is critical.

This is not to say, however, that the courts have focused entirely on second-order questions of whether Congress and the President have followed the right cooperative processes, while ignoring completely first-order questions regarding the substance of the liberty at stake. To the contrary, the courts have preserved a role for themselves that entails respecting the joint action of the political branches while still providing a substantive check on that action. Thus, as the Supreme Court has explained, the political branches’ collective power to declare and wage war “permits the harnessing of the entire energies of the people in a supreme cooperative effort to preserve the nation. But even the war power does not remove constitutional limitations safeguarding essential liberties.” And as Justice Jackson observed in *Youngstown*, although presidential actions authorized by Congress are entitled to “the widest latitude of judicial interpretation,” it might still be appropriate for a court to declare some such actions unconstitutional, as where “the Federal Government as an undivided whole lacks [the asserted] power.”

In short, a judicial approach generally emphasizing second-order process issues can accommodate some engagement with first-order substantive principles. Historical practice by U.S. courts confirms that the judicial role is not simply to protect against executive unilateralism by encouraging Congress and the President to act together, but also to enforce at least some minimum constitutional constraints on even congressionally authorized executive action.

**Hamdi v. Rumsfeld**

In the half-century since *Youngstown* was decided, Justice Jackson’s analytical framework has been embraced as a canonical guide to modern separation of powers analysis. But the framework itself does not resolve all issues that might arise; new cases bring new complications.

Enter *Hamdi v. Rumsfeld*. The case involved the executive branch’s asserted authority to detain Yaser Hamdi as an enemy combatant, after having apprehended him in Afghanistan while he was fighting with the Taliban and against the U.S.-allied Northern Alliance. As the case came before the Supreme Court, part of the government’s argument was that the President possessed the inherent power to designate and detain Hamdi as an enemy combatant. This was an assertion of precisely the sort of broad, unilateral executive power that courts have generally refused to recognize. No member of the Supreme Court accepted it. Instead, the case came to turn on whether Congress had permissibly authorized the detention of alleged
enemy combatants like Hamdi, and what, if any, right a detainee might have to challenge individual exercises of that authority.

On the question of congressional authorization, *Hamdi* exposed a heretofore underappreciated fault line within the institutional-process approach. Specifically, the case revealed the importance of the precise form of the congressional authorization in question, and it is on that point that the opinions of Justices O'Connor and Scalia so interestingly diverge. Justice O'Connor concluded that Congress could employ ordinary legislation to authorize the detention of U.S. citizens as enemy combatants, and that it had in fact done so when it passed the Authorization for Use of Military Force (“AUMF”) in the immediate aftermath of the terrorist attacks of September 11. Critically, however, Justice O'Connor also preserved for the courts a vital role in ensuring that individual exercises of the detention authority comported with both the scope of the statutory grant and the constitutional demands of due process.

In contrast, Justice Scalia took the position that Congress could not, by ordinary legislation, authorize the executive detention of U.S. citizens outside the criminal justice system. In his view, the executive branch has only two options when seeking to detain a U.S. citizen like Hamdi: either prosecute him for committing a federal crime, or convince Congress to suspend the writ of habeas corpus.

On its face, Justice Scalia’s opinion may look like a broad rejection of the entire project of enemy combatant detention, at least as applied to U.S. citizens. Indeed, that is how it has been received by many commentators. But I read the opinion differently. In my view, far from rejecting the extraordinary detention of alleged enemy combatants, Justice Scalia’s opinion simply requires the authorization for such detention to take a specific form. The opinion suggests that if Congress wants to authorize the President to detain U.S. citizens as enemy combatants during times of national crisis, it may do so, *but only by suspending habeas corpus*. Suspending the writ, in other words, is both a necessary and a sufficient condition for authorizing this form of extraordinary detention. I call this approach “suspension as authorization.”

**Suspension as Authorization**

Although Justice Scalia’s *Hamdi* opinion has been widely hailed as the most liberty-protective of all the opinions in the case, I contend that his suspension-as-authorization model could, if adopted more broadly, pose a serious threat to the safeguards of liberty built into the law of habeas corpus and the Constitution itself. In my view, treating the suspension of habeas corpus as authorizing otherwise-forbidden executive detention is both formally untenable and functionally undesirable.

**Formal Considerations.** Habeas corpus, or *habeas corpus ad subjiciendum*, is a judicial writ directing an individual holding another person to bring that person to court. It is a vehicle for judicial inquiry into the legality of the detainee’s confinement. As Chief Justice Marshall famously described, it is a “high prerogative writ . . . the great object of which is the liberation of those who may be imprisoned without sufficient cause.” At bottom, then, habeas corpus is a remedial measure: It provides a judicial remedy for unlawful detention.

The Constitution’s only reference to habeas corpus is found in the Suspension Clause, which provides that “[t]he Privilege of the Writ of Habeas Corpus...
shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.” Suppose Congress exercised the suspension authority referenced in this clause, and suspended the writ. What would follow? Would suspending the writ authorize otherwise-unlawful detention, as the suspension-as-authorization approach would suggest?

The clear answer, confirmed by the entire English and American history of the writ, is “no.” Beginning in the late seventeenth century, the English Parliament occasionally responded to public crises by enacting habeas corpus suspension acts. Those measures simply removed a judicial remedy against unlawful detention, nothing more. Indeed, suspension removed only a judicial remedy, not even all such remedies: By themselves, suspension acts did not insulate the detaining authority from later-imposed liability for unlawful arrest and detention. To do that, Parliament typically accompanied suspension acts with acts of indemnity. If additional legislation was required to protect officials from liability for detaining people unlawfully while the writ was suspended, clearly the suspension itself did not legalize the detention. The same is true of suspensions under the U.S. Constitution. As the Supreme Court explained in the famous Civil War case Ex parte Milligan, “[t]he suspension of the writ does not authorize the arrest of any one, but simply denies to one arrested the privilege of this writ in order to obtain his liberty.” In short, unlawful detention remains unlawful even after the writ is suspended.

It bears emphasizing that even if suspending the writ might make it easier for the government to hold people illegally and get away with it at the time, government officials are obliged by their oaths of office to abide by the Constitution and laws without regard to whether the courts are in a position to enforce that obligation. And in any event, mere suspension of the writ does not put illegal detention categorically beyond the reach of the judiciary. Although suspending the writ would generally disable the courts from remedying unlawful detention as it happens, those responsible for the detention could still face subsequent civil or even criminal liability for their illegal actions.

**Functional Considerations.** Wholly apart from its formal flaws, the suspension-as-authorization model is at odds with the basic structure of our three-branch system of government, and with the checks and balances the system is designed to provide.

Habeas corpus, as noted above, is the principal contemporaneous judicial restraint on unlawful detention by the executive branch. If Congress must suspend the writ in order to authorize the detention of alleged enemy combatants, it is effectively encouraged to read the courts out of the process. And if there is one thing that cuts against the basic structure of our three-branch constitutional order, it is an argument that in order to empower the executive to act, the legislature must oust the judiciary from its constitutional role. By making the exclusion of one branch necessary for the exercise of power by the other two, the suspension-as-authorization model undermines the constitutional design.
The Institutional Process Approach in *Hamdi*

Rather than creating a protocol for dispensing with one of the three branches in times of emergency, the Constitution is better read to contemplate that all three branches will check each other in times of war as well as peace. Courts should look to ordinary legislation as the vehicle for authorizing extraordinary executive action like the detention of enemy combatants, and should then subject exercises of that authority to certain constitutional limits.

The judicial inquiry would proceed in three steps. First, the court would ascertain, as a matter of statutory interpretation, whether the detention falls within the scope of the statutory authorization. If so, it would ask, second, whether Congress has the constitutional power to provide the statutory authority. Some forms of extraordinary detention, undoubtedly, are beyond Congress’s constitutional power to authorize even by the clearest legislative statement. Third, if the court concludes that the statutory authorization falls within Congress’s power, it would then review individual instances of detention to ensure that they comply with basic constitutional guarantees.

First, she examined the AUMF and determined that it authorized the detention of alleged enemy combatants like Hamdi. Second, she concluded that Congress had the constitutional power to authorize that kind of detention. Third, and critically, she concluded that a finding of valid statutory authority to detain does not end the judicial inquiry. Rather, the courts must stand ready to ensure that the executive exercises its statutorily conferred power in a manner consistent with basic constitutional guarantees.

In this respect, Justice O’Connor’s approach preserved a role for all three branches of government. On one hand, by permitting Congress to authorize the executive branch to engage in extraordinary executive detention, she embraced a process-based, institutionally oriented approach in the tradition of Justice Jackson’s Youngstown concurrence. On the other hand, she also preserved for the courts a vital role in ensuring that the executive’s use of its authority comports both with the scope of the statutory grant and with basic constitutional demands. The Constitution, she stressed, “most assuredly envisions a role for all three branches,” even—or perhaps especially—in times of heightened national security concern.12

Rather than creating a protocol for dispensing with the courts in times of emergency, the Constitution is better read to contemplate that all three branches will check each other in times of war as well as peace.
The Constitution and the Liberty-Security Tradeoff

Will Justice O’Connor’s institutional process approach actually protect liberty better than Justice Scalia’s suspension-as-authorization approach? Even accepting every argument I have made above, one might answer “no.” Specifically, one might contend that, by prohibiting certain forms of extraordinary detention unless Congress takes the grave step of suspending habeas corpus, the suspension-as-authorization model minimizes the occasions in which Congress will authorize such detention. This is really a predictive claim—that Congress will be reluctant to suspend habeas corpus, either because members of Congress themselves appreciate the intrinsic values of the “Great Writ,” or, more cynically, because they believe their constituents value the writ and will penalize those who too readily suspend it. In contrast, if during times of national crisis Congress need only pass ordinary legislation to authorize extraordinary detention, it may be more likely to do so. Precisely because it does not exclude the judiciary from the process, ordinary legislation may appear more acceptable to both Congress and the voting public.

Because the Supreme Court has not (yet) embraced Justice Scalia’s suspension-as-authorization model, I see no reliable way to test predictions about how Congress would behave in such a model. But whatever the factual accuracy of the prediction, as a constitutional matter it is insufficient. Our constitutional system seeks to protect liberty by dividing governmental power among three branches, and by arranging those branches so that each is an effective check on the other two. The suspension-as-authorization model is at odds with that approach. It provides no external check on the legislative branch, and instead assumes Congress will restrain itself by generally refusing to suspend the writ. Such a theory of self-limiting power might make practical sense, and there might even be reason to believe it would meaningfully constrain Congress in some cases. But it is not the theory upon which the constitutional separation of powers rests. Conversely, whether or not the Constitution’s three-branch structure actually provides the best means of balancing liberty and security in all cases, our constitutional system proceeds from the premise that it does, and we are not free to revise that premise.13

3. 343 U.S. 579, 635 (1952) (Jackson, J., concurring).
4. Id. at 637.
5. Id.
7. Youngstown, 343 U.S. at 636–37 (Jackson, J., concurring).
8. The AUMF provides that the President may “use all necessary and appropriate force against those nations, organizations, or persons” he determines to be responsible for the attacks of September 11. Pub. L. No. 107-40, § 2(a) 115 Stat. 224 (2001).
12. Hamdi v. Rumsfeld, 542 U.S. 507, 536 (2004) (plurality opinion). By commending Justice O’Connor’s general approach, I do not necessarily mean to say that she applied that approach flawlessly. In particular, I think Justice Souter (joined by Justice Ginsburg) might have been right to conclude in his Hamdi opinion that the AUMF does not authorize the detention of people like Hamdi with adequate specificity.
13. Judge Learned Hand once made a similar point about the constitutional guarantee of free speech: “[The First Amendment] presupposes that right conclusions are more likely to be gathered out of a multitude of tongues, than through any kind of authoritative selection. To many this is, and always will be, folly; but we have staked upon it our all.” United States v. Associated Press, 52 F. Supp. 362, 372 (S.D.N.Y. 1943).
The Court’s Purpose: Secular or Anti-strife?

Bernadette A. Meyler

Under the constitutional vision articulated last year in the Supreme Court’s Ten Commandments decisions, it seems that particular clauses of the Constitution import within themselves a kind of emergency escape clause, or interpretive direction, warning judicial users: “Do not apply if overly divisive.” The majority in the case involving exhibits of the Ten Commandments in Kentucky courthouses, *McCreary Cty. v. ACLU*, applied a familiar standard in holding that the displays violated the Establishment Clause. The plurality and concurrence in the Texas case, *Van Orden v. Perry*, although concluding that the statue commemorating the Ten Commandments should remain standing on the State Capitol grounds, refrained from adopting any such orderly approach. Indeed, Justice Breyer’s tie-breaking vote appears to have been primarily based on the attempt to avoid the strife that removing a monument reciting the Ten Commandments might have occasioned.

Far from representing a radical exercise in judicial “say-so,” as Justice Scalia would have it, the decision that the courthouses of two counties in Kentucky could not constitutionally persist in foregrounding the Ten Commandments as part of a display on “The Foundations of American Law and Government,” demonstrated a rather traditional reliance upon the Court’s established precedents. Justice Souter, writing for the five-member majority, rigorously applied the first prong of the three-part test derived from *Lemon v. Kurtzman*, a 1971 case holding certain types of state financial aid to religious schools unconstitutional. From this, he concluded that the events leading up to the counties’ presentation of the displays—including several forerunner exhibitions and county legislative resolutions stating that the Ten Commandments are “the precedent legal code upon which the civil and criminal codes of . . . Kentucky are founded”—showed that no predominantly secular purpose underlay the courthouse exhibitions.

Nor are the substantive criticisms that the dissent leveled at the deployment of this “secular purpose” standard particularly persuasive. As the majority articulated it, the test bore substantial resemblance to those in other segments of the Court’s jurisprudence—including equal protection and voting rights. Some of the dissenters themselves have endorsed reconciling the Court’s reasoning under the Religion Clauses with approaches in similar areas of constitutional law, and have been instrumental in generating those other approaches. In a 1993 decision about whether a town had violated the free exercise rights of members of a church practicing the Santeria religion, Justice Scalia explained that “comparison with other fields supports,
rather than undermines, the conclusion we draw today.” Comparison with these other fields also supports the understanding of “secular purpose” articulated by the majority in McCreary.

Inquiries into governmental and legislative purpose form a standard component of constitutional decision-making, particularly in the race discrimination context, where the Court, in the 1976 case Washington v. Davis, announced that a particular official action or law must both be motivated by a discriminatory purpose and result in a disparate racial impact to violate the Equal Protection Clause of the Fourteenth Amendment. In considering race-based claims, the Court has often looked to the particular series of events leading up to the challenged decision in determining whether the government acted in accordance with a discriminatory purpose. Similarly, in McCreary, Justice Souter exhaustively described the three successive Ten Commandments displays—each seemingly attempting to further mask the non-secular purpose—as well as the counties’ resolutions with regard to them in reaching the conclusion that the government’s purpose was not secular.

The majority also specified that the counties’ purpose needed to be “predominantly” secular, rather than simply motivated partly by religion and partly by other secular motives. Although Justice Scalia excoriated this requirement as a new and unjustified invention, the language of predominance is familiar from the racial gerrymandering arena. Likewise, the “searching review of the [legislative] record” that the Court performed to ascertain whether or not a secular purpose predominated echoed the reasoning undergirding a very different majority’s decision in 1997 in the City of Boerne v. Flores. In that case, which invalidated certain provisions of the federal Religious Freedom Restoration Act, the majority opinion, authored by Justice Kennedy, and joined by Justices Rehnquist, Thomas, and Scalia, as well as Stevens and Ginsburg, scrutinized the legislative history to ascertain whether the measures Congress had taken were congruent and proportional with the attempt to remedy discrimination against religious groups and practitioners.

It is, in addition, possible to reconcile the McCreary majority’s emphasis on secular governmental purpose with the outcome of the Texas capitol case. Whereas the sequence of successive exhibits in Kentucky and the counties’ legislative resolutions about them clearly evinced a predominantly sectarian purpose, the installation of the Ten Commandments monument in 1961 did not carry with it such evident markers of non-secular purpose. Furthermore, the Court has, in the past, held that the religious implications of certain kinds of historical artifacts or practices have become

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The problem with the two Ten Commandments decisions, however, is that the Court refrained from attempting to bring them into accord. Justice Breyer, who did not concur in the plurality’s opinion in Van Orden, but cast the deciding vote, reached his determination through the exercise of “legal judgment” rather than invocation of the Court’s precedent. Although he explained that “the Texas display . . . might satisfy this Court’s more formal Establishment Clause tests” (emphasis added), he did not rely on these tests, or on the secular or non-secular purpose of those who erected the monument, but rather on “the basic purposes of the First Amendment’s Religion Clauses themselves.”

The primary such purpose was, he opined, to avoid “religiously based divisiveness.” Because the
Ten Commandments monument on the lawn of the Texas Capitol had been challenged only once in forty years, he reasoned, “as a practical matter of degree this display is unlikely to prove divisive.” By contrast, a Supreme Court decision to remove such a marker “might well encourage disputes.” While some scholars have noted that the Court’s judgments rarely deviate substantially from the norms of the contemporary society, it is unusual to find opinions actually stating as their bases a desire to avoid constitutionally-created conflict.

The vision articulated by Justice Breyer’s concurrence bears within it dangers similar to those entailed by Justice Scalia’s demagogic dissent in McCreary. Justice Scalia, in his most extreme judicial statement yet in favor of governmental religious expression, significantly commenced his opinion by invoking the events of September 11, then continued by explaining that, in his view, government should be able to endorse a monotheistic God. It is perhaps not incidental that, in this rhetoric, the war on terror and the culture wars are not here too far apart. The dissent is also firmly—almost shamelessly—majoritarian, insisting that 97% of Americans who believe in religion are part of a monotheistic faith, and citing an Act of Congress reaffirming the religious language in the Pledge of Allegiance. Neither the Constitution, nor the Court’s interpretation of it, are incompatible with the value that these religious practitioners place upon monotheism. The Constitution simply assumes that in America, a place where religious dissenters sought refuge and where even the original state constitution of South Carolina specifically provided a way in which fifteen men could together form a new sect, it is unnecessary for government to impose a particular vision of religion, or a particular version of the Ten Commandments (which differ significantly among Protestants, Catholics, and Jews), on everyone else.

Justice Scalia’s opinion, despite its majoritarian emphasis, is far from avoiding divisiveness, but, perhaps, neither is Justice Breyer’s. When the Court, as it did last fall, issues decisions that seem so inconsistent to the “reasonable observer”—the same one from whose vantage point the assessment of secular purpose occurs—it cannot help but cause consternation among people of all persuasions. This is even more the case when the Court eschews the attempt to apply enduring if evolving principles and substitutes for them “legal judgment,” however good or experienced that judgment might be. Whether or not the government’s purpose is secular, the Court’s seems to be anti-strife.

The Constitution simply assumes that in America it is unnecessary for government to impose a particular vision of religion, or a particular version of the Ten Commandments, on everyone else.
Law School and Cornell Colleagues Awarded NSF Grant in Digital Government

Cynthia R. Farina and Thomas R. Bruce of the Law School are part of a multidisciplinary team that has received a $750,000 grant from the National Science Foundation’s Digital Government project. The team, which includes natural language processing expert Claire Cardie and sociologist Erica Wagner (of the Computing and Information Science program and the Hotel School, respectively), will study sophisticated uses of information technology to help federal agencies manage and monitor the creation of new regulations on the web. They are particularly interested in developing technological tools in two areas: making it easier for rule-writers to comply with the complex set of legal requirements that apply to creating a rule, and managing the increasingly unwieldy public comment process in which stakeholders give the agency feedback on proposed regulations. In addition, the team will study the internal agency process of rulemaking itself, collecting data on whether and how the Internet is changing that process.

Under compulsion from the E-Government Act of 2002, federal agencies are converting the rulemaking process (and, indeed, their entire docket of public records and actions) from paper to the Internet. The site www.regulations.gov is to be the single web portal for access to, information about, and participation in all federal agency actions, including the process of publicizing and taking comments on proposed rules—a process now known as electronic rulemaking (eRulemaking.) This conversion is supposed to make rulemaking more transparent and accessible to the public, as well as faster, more informative, and more cost-effective for the agency. However, it has quickly become apparent that if the technology is not thoughtfully and proactively used, eRulemaking may frustrate the rule writer’s task by swamping her with thousands of relatively uninformed and useless comments that must nonetheless be managed. Moreover, as Professor Farina recently pointed out in remarks to the House Judiciary Committee, unless the comment interface is carefully constructed, rather than educating and empowering citizens to participate in policymaking, Regulations.gov will become just another medium through which a limited group of insiders communicates with those in government.

The Cornell team will work on these problems by focusing not only on developing technology-based systems to help agency rule writers do their job better, but also on using technology to design a comment interface that helps would-be commentators understand how the comment process works and what the legal and technical basis of the proposed rule is. The team’s cross-disciplinary make-up—expertise in natural-language processing techniques (Professor Cardie, principal investigator), regulatory law (Professor Farina, principal investigator), public legal information systems (Mr. Bruce), and the effect of technology on organizations (Professor Wagner)—makes it particularly well-suited for such a project. As Mr. Bruce, director of the Cornell Legal Information Institute, remarked, “An important function of the LII is acting as a seedbed for this kind of multidisciplinary activity, and I’m delighted it’s bearing fruit. Cornell is one of a very few places where one can find this particular array of expertise, and mobilize it to help both government and the public.” NSF apparently agreed. In a year of sharply restricted funding, the Cornell team was one of only two proposals in the e-Rulemaking area to receive a major grant. (The other team has been working in the area, with NSF support, for several years).

The award recommendation concluded that Cornell’s project “is likely to have wide and deep impacts on research and education.” The team will partner with agencies in the Departments of Commerce and Transportation during the three-year project.

Judge Wesley ’74 Makes a Convincing Case for Clerking After Law School

The need to repay hefty student loans is one reason law school graduates are more apt to say yes to immediate job offers from well-heeled law firms. But in doing so they are missing an opportunity to gain invaluable experience clerking for a state or federal judge. So says federal appeals court Judge Richard Wesley ’74, convincing Cornell law students how rewarding the job of a law clerk can be. Judge Wesley was on campus October 23 through 27 as the 2005 Distinguished Jurist-in-Residence at Cornell Law School. President George W. Bush appointed Judge Wesley to the U.S. Court of Appeals for the Second Circuit, which serves New York, Connecticut, and Vermont, in 2003.
Judge Wesley made a convincing argument for clerking when he met with law students in Myron Taylor Hall’s Saperstein Student Lounge on his first day in residence. He also brought with him four credible witnesses—his own clerks—to bolster his case. “Most of the major law firms will hold positions open if you decide to clerk for a year before joining one of them, and some will even pay you a substantial bonus for having clerked,” he told the students. “The knowledge you’ll acquire working for a state or federal judge is immeasurable,” he went on. “It will be your only opportunity to see the judicial process behind the veil, behind chambers. If you want to be a prosecutor or work in an appellate court, where better to learn?”

But getting a clerkship can be competitive, with only a handful of graduates selected from hundreds of qualified applicants. Judge Wesley and his clerks explained what they look for in candidates. “Typically—but not always—they are in the top ten percent of their classes and have law journal experience,” said Judge Wesley. “We also pay attention to extra experience, such as Moot Court, and people who have been active in outside organizations, such as Habitat for Humanity. Active people are usually good time managers, which is essential to clerking because the workload is heavy,” he said.

One of the clerks, Zachary Gubler, talked about writing a case soon after being hired, then “getting grilled” by a prominent judge on some of the points. “I was flattered that a judge would take an idea I had seriously enough to come into my office and demolish it. I thought, wow. This is a pretty good job.” The experience of clerking also “gives me a sense of the far-reaching impact of decisions I only minutely grasped in law school,” he said.

Second-year law student Galit Avitan, who externed with a circuit court judge last summer and hopes eventually to be involved in appellate court work, said of the session with Judge Wesley and his clerks, “I got a sense of excitement, humanizing the work product, the process.”

And Joseph C. Storch, a third-year law student who is considering seeking work in a university legal counsel’s office after obtaining his J.D. degree, said, “It was an honor to hear from an accomplished judge who walked the same halls as we do.”

Appearing on a panel during his visit, Judge Wesley defended one of his appeals court decisions, Hamilton v. Beretta, in a discussion of whether gun manufacturers should be liable for crimes committed with guns. Judge Wesley, who found gun manufacturers not to be liable in that case, said he believes that the heart of the problem of injuries and deaths from handguns is the illegal sale of guns in places where laws are lax and their transportation across state lines.

During his visit, Judge Wesley also taught a class in Professor Robert Hillman’s course on Contracts, met with the student editors of the Law School’s journals, and had a luncheon discussion with the law faculty.

Minter ’93 Champions Rights of Sexual Minorities

As part of the Law School’s Cyrus Mehri Public Interest Speakers Series, Shannon Price Minter ’93 returned to Cornell Law School on November 16 to speak on the topic “Creating Change: The Future of LGBT Rights.” Mr. Minter, who attended the Law School as a woman, is now a married man, and serves as legal director for the National Center for Lesbian Rights (NCLR) in San Francisco.

As a law student, Mr. Minter interned at the NCLR, and helped start a legal aid program for young lesbian, gay, bisexual, and transgender people (LGBT) who had been forcibly hospitalized for psychological treatment to change their gender identity. In a dozen years with the NCLR, Mr. Minter has become known for his tireless work on precedent-setting cases. “We litigate across quite a wide range of issues across the country,” said Mr. Minter. “Our goal is to advance the human rights and safety of all lesbian, gay, bisexual and transgender people, so we end up litigating in state and federal court across the country.”
His successes include helping to pass anti-discrimination laws protecting transgender people in employment and health care.

“A really wrenching aspect of what we do is working on behalf of LGBT youth in foster care and juvenile justice systems,” Mr. Minter said. “It’s work that’s very dear to my heart. For youth who are dealing with being gay or transgender on top of that, it’s really hard to describe the brutality they’re facing currently. It’s really, literally, a nightmare for those young people. They are subjected to sexual assault, physical assault from other youth and often from staff. There’s been very little legal progress in this area. We’re representing a young gay man from Tennessee who went into a foster family that forced him to undergo repeated exorcisms to cure him of being gay.”

Mr. Minter has also brought national attention to transgender parents threatened with losing parental rights. In 2001 Mr. Minter represented Sharon Smith in her successful effort to win the right to file a wrongful death suit after her partner, Diane Whipple, was mauled to death by a neighbor’s dog in San Francisco. Until this case, only married survivors could bring suit. Today Mr. Minter is the lead attorney in Woo v. Lockyer, a California marriage equality case. Mr. Minter sees a “frightening new trend” across the country: “Conservative groups are passing subtly worded statutes—in some instances state constitutional amendments—and using them to argue that gay people should actually be shut out of all kinds of ordinary legal protections that are available to other people, such as the right to seek custody or visitation, the right to use domestic violence services, the right to obtain equal benefits from an employer.”

In October 2005 Mr. Minter received a $100,000 “Leadership for a Changing World” award from the Ford Foundation for “working against great odds to make a difference” on behalf of LGBT people (see story covering the award on p. 53). He has taught at Stanford, Golden Gate, and Santa Clara law schools. Mr. Minter is editor of a new anthology, Transgender Rights, to be published by the University of Minnesota Press in 2006.

Public interest lawyers have been an absolutely critical part of every single rights movement, and that continues to be true today,” Mr. Minter said. “It’s true for the LGBT movement, the reproductive and environmental justice movement, workers’ rights, rights of people with disabilities, rights of immigrants and native peoples, the rights of people who are incarcerated—in all of these areas the law is such an incredibly important and powerful tool. As public interest lawyers, you all are going to have the opportunity to make an enormous impact on the world.”

Karen Comstock, assistant dean for public service and coordinator of the Cyrus Mehri Speaker Series, said, “I was so pleased to bring Shannon to the Law School. It is gratifying that his speech attracted students and faculty from across the Cornell Campus. Shannon is a tireless and brave civil rights advocate, and a very compelling role model for our students who strive to be public interest lawyers.”

The Latest Developments in the War on Drugs
On November 5, the Cornell Journal of Law and Public Policy hosted its fifteen annual symposium. This year’s topic was “The Latest Developments in the War on Drugs.” The symposium examined the recent Supreme Court rulings on medical marijuana and sentencing guidelines, and the intersection of the war on terror and the drug war. The keynote speaker, Ethan Nadelmann, is executive director of the Drug Policy Alliance, the leading organization in the United States promoting alternatives to the war on drugs. Described by Rolling Stone magazine as “the point man” for drug policy reform efforts, Mr. Nadelmann is widely regarded as the outstanding proponent of drug policy reform both in the United States and abroad. Mr. Nadelmann presented a passionate speech entitled “Building a Political Movement to End the War on Drugs” that was attended by over one hundred people.

The symposium brought together twelve distinguished panelists and moderators, including leading experts in criminal law and drug policy throughout the country. The first panel, “Gonzales v. Raich,” examined the recent Supreme Court decision in which the Court held that Congress’ commerce clause authority includes the power to prohibit the local cultivation and use of marijuana for medical purposes. This panel featured Cornell Law Professor Trevor W. Morrison, William G. Otis from the U.S. Drug Enforcement Administration (DEA), George Mason Law Professor Ilya Somin, and Mr. Nadelmann as moderator.

The second panel included some of the leading experts on the Federal Sentencing Guidelines to discuss the recent Supreme Court case, U.S. v. Booker, where the Court held that any facts
that increase the penalty for a crime beyond the prescribed statutory maximum must be submitted to the jury and proved beyond a reasonable doubt. The panelists debated the future implications of Booker on sentencing for drug crimes, as well as discussed the disparate treatment on sentencing when different types of drugs are involved, e.g., crack versus cocaine. The panel, moderated by Cornell Law Professor Michael Heise, included Missouri-Columbia Law Professor Frank O. Bowman III, Villanova Law Professor Steven L. Chanenson, and Marquette Law Professor Michael M. O'Hear.

The final panel dealt with the parallels of the drug war and the War on Terror, where panelists discussed the similarities and differences between the two “wars.” The panelists discussed how terrorist organizations fund their operations through illegal drug cartels, but also showed the negative consequences of linking both “wars,” particularly in the realm of immigration law. Moderated by Cornell Law Professor Steven D. Clymer, the panel included presentations by University of Utah Law Professor Erik Luna, SUNY-Buffalo Law Professor Teresa A. Miller, and National War College Professor Harvey Rishikof.


Law School Sponsors Summer Law Institute in Suzhou, China

Beginning in the summer of 2006, the Law School, in partnership with the Kenneth Wang School of Law at Soochow University, Suzhou, China, and with the Bucerius Law School, in Hamburg, Germany, will sponsor the Summer Law Institute in Suzhou, China, a three-week program offering a three-credit course entitled “Workshop in International Business Transactions with Chinese Characteristics.” Taught in English, the course will feature interactive sessions and negotiations among students from China, Europe, and the United States.

The program is being organized by Professor Barbara Holden-Smith, Cornell Law School’s Associate Dean for Academic Affairs, who also will serve as the program director, and Francis Wang ’72, Professor of Law at the Kenneth Wang School of Law of Soochow University, visiting professor at the University of California, Berkeley, visiting professor and Distinguished Scholar in Residence at the University of the Pacific McGeorge Law School, and executive director of the Wang Family Foundation. Professors Holden-Smith and Wang will be joined as full-time program faculty by Laura Wen Yu Young, a professor at the Kenneth Wang School of Law, visiting professor at both the University of California, Berkeley, and the University of the Pacific McGeorge School of Law, and managing partner of Wang and Wang; Dr. Karsten Thorn, professor of private law, private international and international commercial law, and comparative Law at Bucerius Law School; and James Li, professor of international law at Tsinghua University School of Law in Beijing, China. In addition, there will be part-time faculty members from the University of California Hastings College of the Law, University of the Pacific McGeorge School of Law, Tsinghua University School of Law, Renmin School of Law, and the Kenneth Wang School of Law, as well as distinguished private practitioners from the United States.

The program will take place from July 16 through August 4, 2006, in Suzhou, China. Thirty law students from across China and thirty more from Europe and the United States will form teams to navigate and solve a series of hypothetical transactions and problems. The first part of the course will survey basic concepts of Chinese law across the millennia so that Western students have some background in working with their Chinese counterparts. Then multinational student teams will work together to represent the interests of hypothetical Chinese, American, or European clients in a variety of real-life business situations. The course is an interactive, participatory exercise, not meant to be a comprehensive course on the substantive law of international business transactions, but rather to introduce the complexities of working through transnational business ventures with partners from different legal backgrounds. It is designed to assist them in identifying potential problem areas, and in developing strategies for their resolution in the Chinese context. The course will therefore expose students to aspects of Chinese, American, and European Union law in the areas of contracts, business association, joint ventures, intellectual property, trade dispute mechanisms, and dispute resolution mechanisms.

Suzhou, a city of just over five million inhabitants, lies about one hour’s drive northwest of Shanghai. The historic silk capital of China, Suzhou has a rich history going back over 2,500 years. European explorer Marco Polo called it “the Venice of China.” Students will make field trips to courts and other institutions that provide further insights into the Chinese legal system. On their own, students will also have opportunities to visit Suzhou’s famous scholars’ gardens and cultural sites. In addition, the
program will sponsor two excursions, one to Nanjing (included in the basic program), and the other to Beijing and Xian (optional).

Cornell Law School received ABA approval for this program late in January 2006. Additional information is available at the program web site: http://www.lawschool.cornell.edu/international/Suzhou/.

**Labor Law Clinic**

The Labor Law Clinic, which is being offered for the first time this semester, and which quickly reached its enrollment limit of eight students, is an innovative approach to labor law education and skill development. Directed by Angela Cornell, assistant clinical professor of law and extension associate with Cornell’s School of Industrial and Labor Relations (ILR), it is the first of its kind in the country. The clinic offers a substantive overview of the field as part of a classroom component combined with practical experience researching issues, providing advice and representing union clients in different forums. In addition to deepening their understanding of labor law, the course advances students’ practical lawyering skills, emphasized by the American Bar Association as central to the mission of law schools in preparing students for the profession. The field of labor law, with its varied statutory, regulatory, and constitutional authority, provides countless clinical opportunities for interested students.

Most clinic students are working directly with clients for the first time, becoming acclimated to their new role as counselors at law. In addition to interviewing witnesses, drafting pleadings, and exploring avenues for redress, some students have had the opportunity to represent a client at an arbitration. During the hearing the students made the opening statement, performed the direct and cross-examination of witnesses, and argued evidentiary issues. As the semester progressed, they were exposed to the multifaceted demands of lawyering and the limitations of the law.

Students began the semester researching issues such as collective bargaining, drug-testing at the workplace, non-bargain-
Professor Bressman has established herself as an innovative scholar in administrative law. At the Vanderbilt Law School, she teaches Administrative Law, Constitutional Law, Government and Religion, and Legal Process. While at Cornell Law School, Professor Bressman taught a course on Government and Religion. Though her time in Ithaca was short, Professor Bressman says she “enjoyed spending time with such a talented faculty and gifted student body.”

Robert Alain Pottage is a graduate of Edinburgh University (LL.B., 1984) and the London School of Economics (LL. M., 1985). Before joining LSE’s Law Department, he taught at King’s College, London. He has also been a visiting professor at Ecole des Hautes Etudes en Sciences Sociales, Paris, and at the Faculty of Law at the University of Sydney.

At LSE, Professor Pottage is a reader in property law; joint head of the Master of Science program in Law, Anthropology, and Society; co-organizer of an international doctoral program in European legal cultures; and a member of the board of the School’s BIOS Research Centre for the study of Bioscience, Biomedicine, Biotechnology and Society. The Bios Centre is a major new initiative of the LSE, a multidisciplinary research center analyzing the practice and implications of developments in new fields of bioscience. Professor Pottage’s own research interests are focused on a social-theoretical understanding of property rights in biotechnology, and questions of ownership more generally.


At Cornell Law School this semester, Professor Pottage is teaching a class on Intellectual Property, and leading a seminar entitled “Intellectual Property Rights and Global Bio-economics.” “For someone whose teaching and research interests lie in the field of intellectual property, and patents in particular,” says Professor Pottage, “it is both a delight and a challenge to have the opportunity to explore the broad world of science and Science and Technology Studies at Cornell, and to explore questions of intellectual property with students who have such a rich and diverse knowledge of intellectual property and its contexts.”

The Law School welcomes Eva Maria Pils as a visiting scholar during the spring 2006 semester. Ms. Pils studied law, philosophy, and Sinology at Heidelberg University, Germany, graduating with a law degree in 1996. She qualified as a German lawyer and practiced law at Baker and McKenzie, Frankfurt, before taking her LL.M. degree from the School of Oriental and African Studies, London, in 2000. The LL.M. program having reminded her of the pleasure of academic work, she embarked on a Ph.D. dissertation on “Rights Protection and Justice in Contemporary China” at University College London, gaining her Ph.D. degree from the University of London in January 2005.

In 2003, Ms. Pils was a participant in the EU-China Judicial and Legal Co-operation Programme in Beijing. In 2004/2005, she was a Global Research Fellow at New York University School of Law, doing research on Chinese land law issues and working with Professor Jerome Cohen and Professor Frank Upham. Her paper, “Land Disputes, Rights Assertion, and Social Unrest: A Case from Sichuan,” is about to be published in the Columbia Journal of Asian Law. After the conclusion of her program, she remained at NYU for another semester to work with Frank Upham on a course focusing on law and social conflict in China.

Ms. Pils joins Cornell Law School as a visiting scholar in the spring semester 2006, and as a visiting assistant professor in the fall semester 2006. Her teaching in the fall will include a course on Chinese law, and reflect her research interests in Chinese law, law and social conflict, legal philosophy and comparative law. She is delighted to join the Law School and to find it a place that allows her to do serious work, as well as have exchanges with colleagues in all areas.
Faculty Workshops and Presentations, Fall 2005

**Jonathan R. Nash**, Robert C. Cudd Associate Professor of Law, Tulane University School of Law: “The Law and Economics of New Source Review”

**Eduardo M. Penalver**, Associate Professor of Law, Fordham University School of Law: “Property as an Entrance”

**Brian Wansink**, John S. Dyson Professor of Marketing, Cornell University, Department of Applied Economics and Management: “How Small Changes in Packaging and Labels Influence Consumption”

**Benjamin C. Zipursky**, Professor of Law, Fordham University School of Law: “A Theory of Punitive Damages”

**Randall S. Thomas**, John S. Beasley II Professor of Law and Business, Vanderbilt University Law School: “Empirically Reassessing the Lead Plaintiff Provision: Is the Experiment Paying Off?”

**David A. Skeel**, S. Samuel Arshet Professor of Corporate Law, University of Pennsylvania Law School: “Christianity and the (Modest) Rule of Law”

**Michael A. Perino**, Professor of Law, Visiting from St. John’s University School of Law: “Strategic Decision Making in Federal District Courts”

**Alan S. Hyde**, Professor and Sidney Reitman Scholar, Visiting from Rutgers University School of Law: “A Stag Hunt Account and Defense of Transnational Labour Standards—A Preliminary Look at the Problem”

**Lee Epstein**, Professor of Law and Edward Mallinckrodt Distinguished University Professor of Political Science, University of Washington School of Law: “The Politics of Appointments in the Supreme Court”

**Judge Richard Wesley**, U.S. Court of Appeals for the Second Circuit: “What Happened to Original Intent After the Eighteenth Century?”

**Nancy J. King**, Lee S. and Charles A. Spier Professor, Vanderbilt University School of Law: “Appeal Waivers and the Future of Sentencing Policy”


**Sai B. Prakash**, Professor of Law, University of San Diego School of Law: “How to Remove a Federal Judge: An Exploration of ‘Good Behavior’ Tenure”

**Eric A. Kades**, Professor of Law, Visiting from William and Mary Law School: “The Law and Economics of Civil Disobedience”

**Beth S. Noveck**, Associate Professor and Director, Institute of Information Law and Technology, New York Law School: “Trademark Law and the Social Construction of Trust: Creating the Legal Framework for On-Line Identity” (An information science colloquium jointly sponsored by the Law School and Cornell University’s Computer Science Department)

**Tom Allen**, Professor of Law, Visiting from the University of Durham (United Kingdom): “Compensation for Property Under the European Convention on Human Rights”

**Brian R. Cheffins**, S.J. Berwin Professor of Corporate Law, University of Cambridge: “Dividends as a Substitute for Corporate Law: The Separation of Ownership and Control in the United Kingdom”

**What is a Legal System?**

**New Book Overturns Long-Held Views**


Professor Summers’s book addresses the fundamental question, “What is the nature of a legal system?,” and shows that it cannot be reduced to a mere system of rules, as previously held by Hans Kelsen and H.L.A. Hart, two of the great analytic legal theorists of the twentieth century. Indeed, Professor Summers views rules as just one of many functional legal units—legislatures and courts are others—that are organized to form a system. “A discrete legal unit does not function independently,” he writes. “It must be combined and integrated with other units.”

“Form and Function is a triumph,” writes Professor Tony Wier, a Fellow of Trinity College, the University of Cambridge. “Wherever one looks in the book one finds something that strikingly bespeaks acuity and wisdom, presented in a perspicuous style.”

Cornell Law Professor Robert Hillman, who chaired a national symposium on the book’s ideas at the end of March at the
Law School, said: “Bob’s book is a very significant, fresh contribution to legal theory because it focuses not on rules but on the importance of form in the law.” Professor Hillman praised the book for its “clear and diverse insights, which will be of interest even to those who do not consider themselves primarily legal theorists.”

The author employs a “form-oriented” mode of analysis as the main method for elucidating the nature of functional legal units and of the legal system as a whole, and he looks at each unit in terms of its purposes, overall form, constituent formal features, and material or other components. In addition to institutions such as legislatures and courts, the book goes on to apply this approach to legal precepts—such as rules and principles—and to such non-perceptual legal units as contracts and property interests, sanctions and remedies, interpretive and other legal methodologies, and more. Professor Summers also challenges the long-held idea in some quarters that legal form is inherently formalistic. “It’s not, when it’s well-designed and serves desirable ends and values,” he asserts.

Professor Summers is quick to credit others in the making of the book, notably, “enormous help from students in my annual seminar, Jurisprudence and Legal Theory, and extraordinary research support from student research assistants, library staff, and colleagues, including the past three deans of the Law School.”

A preliminary copy of Professor Summers’s book also had the honor of becoming the 700,000th volume to be added to Cornell Law Library’s collection—recognized in a special ceremony held last November.

Professor Summers also is co-author (with James J. White) of The Uniform Commercial Code, the most-cited treatise on the code by courts and scholars, now in its fourth edition. In addition, his name appears as author, co-author, or editor on the spines of forty-eight books on law, jurisprudence, and legal theory.

Faculty Members Write Amicus Briefs
In Holmes v. South Carolina, the U. S. Supreme Court granted certiorari to determine whether the South Carolina rule restricting evidence of the admissibility of the guilt of a third person violated Mr. Holmes’s rights protected by the due process, confrontation, and compulsory process clauses. In Holmes, Cornell Law Professors Stephen P. Garvey and John H. Blume authored an amicus brief, filed in support of the petitioner, on behalf of a number of distinguished professors of evidence law. Professor Faust Rossi was one of the amici. Professor Blume argued the case in the U.S. Supreme Court, the sixth time he has appeared before the Court.

In Day v. Crosby, the Court granted certiorari to determine whether, in a habeas corpus matter, the district court may raise a statute of limitations issue sua sponte. In Day, an amicus brief was filed in support of the petitioner on behalf of a number of academic experts in habeas corpus law. In that case, Professor Blume was one of the amici. The brief was co-authored by Cornell Law School graduate Anne-Marie Luciano ’01, now an associate at Dickstein Shapiro in Washington, D.C.

Life on Death Row
On November 8, exonerated former death row inmate Joseph Amrine spoke at the Cornell Law School about his case and life on Missouri’s death row. Mr. Amrine spent seventeen years in prison for the murder of a fellow prisoner, a crime committed while Mr. Amrine was incarcerated in a Missouri State Penitentiary. Investigators never found physical evidence linking Mr. Amrine to the murder, and the three inmates who testified against Mr. Amrine during his trial later recanted their testimony and said that they had lied to win special protection for themselves. Mr. Amrine would have been freed in 1992 without the wrongful murder conviction.

The Missouri Supreme Court overturned Mr. Amrine’s capital conviction on April 19, 2003, recognizing that there was “clear and convincing evidence” that he was innocent. The Court ordered that Mr. Amrine be conditionally discharged in thirty days.

Former death row inmate Joseph Amrine (left) with Professors Sheri Lynn Johnson and John H. Blume (right)
Alumni Co-founders of Hotels.com Visit Law School

Cornell Law School class of ’82 graduates and co-founders of Hotels.com Robert Diener and David Litman presented their “Conservative Entrepreneurship” philosophy at the Law School on September 12. They described the process they went through in starting their company, from its first appearance while they were at Cornell Law School together through the merger of their company with USAInteractive in 2003.

With an initial $1,200 investment, together with the help of executives and employees, they developed their company into one of the largest specialized providers of lodging in the world. The company is considered to be one of the Internet’s primary sources of discount accommodations and an industry innovator and leader. In 2003, when they sold the remaining public portion of the company back to USAInteractive, the company was valued at over $5.5 billion. Mr. Diener and Mr. Litman also addressed students in Dean Schwab’s Law and Ethics of Business Practice class.

2005 Junior Empirical Legal Scholars Conference at Myron Taylor Hall

On October 21 and 22, the Cornell Law School and the Journal of Empirical Legal Studies hosted the Junior Empirical Legal Scholars Conference. The conference featured presentations of original empirical legal scholarship by leading junior scholars, and commentary provided by senior scholars. Presenters were selected on the basis of the strength of their early work and promise for future success in the field.

While all the presented papers approached their topics from an empirical perspective, the papers straddled a wide range of substantive fields, and reflected a diverse array of disciplines, perspectives, and methodologies. Yale’s Richard Brooks considered the empirical uncertainty surrounding the affirmative action debate, while Texas’s Mary Rose, a sociologist, assessed variables influencing jury selection. Michigan’s Jill Horwitz and Pinar Karaca-Mandic, of RAND’s Institute for Civil Justice, discussed the influence of the corporate ownership form on hospitals and Sarbanes-Oxley, respectively. Ahmed Taja (Wake Forest) assessed political variables’ influence on judicial decisionmaking, and Janice Nadler (Northwestern) presented experimental results relating to perceptions of legal legitimacy. Chicago’s Tom Miles analyzed the FBI’s “Ten Most Wanted” lists. Northwestern’s Max Schazenbach spoke on trust practices. Senior commentary was provided by, among others, John Donohue (Yale), Lee Epstein (Washington University), and Shari Diamond (Northwestern). Other senior commentators included Law School professors Theodore Eisenberg, Valerie P. Hans, Michael Heise, Jeffrey J. Rachlinski, and Martin T. Wells.
This year’s conference succeeded on many fronts. First, it helped encourage and develop the work of younger scholars pursuing empirical legal research by providing an opportunity to present and discuss their work with a small group of leading empirically-oriented senior scholars. Second, the conference stimulated an ongoing set of conversations among a diverse group of junior and senior scholars about the nature of—and challenges inherent in—interdisciplinary scholarship and teaching. Third, it helped build an intellectual community among empirical legal scholars generally, particularly among new and veteran professors across various disciplines.

The *Journal of Empirical Legal Studies* is a peer-reviewed, interdisciplinary journal, committed to publishing high-quality, empirically oriented articles of interest to scholars in a diverse range of law and law-related fields. More information about JELS is available at [http://blackwellpublishing.com/jels](http://blackwellpublishing.com/jels), or at jels@cornell.edu.

**Islam’s Shari’a Law Discussed by A. D. White Professor-at-Large Bassam Tibi**

On September 22, Professor Bassam Tibi, currently a Cornell University A.D. White Professor-at-Large, gave a Clarke Fund for the Middle East Speaker Series lecture at the Law School entitled, “Is Shari’a a Constitutional Law?” In Iraq, and elsewhere in the Islamic world, there are significant efforts to establish Islam’s shari’a law as the basis for national constitutions. Dr. Tibi’s talk focused on whether shari’a, if accepted as constitutional law, would include and guarantee the right of freedom of faith. His hypothesis was that there exists a conflict between shari’a and the human rights concept of freedom of faith, and that “Islam without religious reforms” does not provide a legal model for a constitutional freedom of faith. Conversely, secular human rights themselves offer a model for a reform of shari’a that hold out the possibility of an “Islamic reformation.”

Professor Tibi is the director of the Center for International Affairs at the University of Göttingen, Germany, and a recognized authority on modern Islam, Arab nationalism, democracy and religion, and the multifaceted challenges of globalization confronting both Islam and Europe. Professor Tibi’s views on contemporary forms of Islam challenge both those who consider Islam a foreign body in Europe, and religious fundamentalists who want to shape civil society in their image. His books and articles on modern Islam, Arab nationalism, democracy and religion, and the challenges that Islam and Europe jointly face in the age of globalization are published widely in English, Arabic, German and French. His recent books include *The Challenge of Fundamentalism: Political Islam and the New World Disorder; Islam Between Culture and Politics;* and *Conflict and War in the Middle East.* He was awarded the Medal of State/First Class (1995) by the president of Germany, selected Man of the Year in 1997 by the American Biographical Institute, and shared the 2003 Swiss Foundation for European Awareness Prize Award with Professor Michael Wolffsohn of Munich.

**The Iraqi Special Tribunal and the Trial of Saddam Hussein by Eric Blinderman ’99**

The Clarke Fund for the Middle East Speaker Series hosted a program on September 29 at which Eric H. Blinderman ’99, chief legal counsel to the U.S. Department of Justice Regime Crimes Liaison Office in Baghdad from June 2004 through April 2005, spoke about the then-upcoming trial of Saddam Hussein. Mr. Blinderman, who returned to Baghdad in October to help prepare for the trial, described its historical context and the procedural mechanisms that govern it. In particular, he explained how the Iraqi Special Tribunal (the Court which has jurisdiction over Mr. Hussein) operates, how the trial will proceed, and how the civil law-based system in Iraq differs from common law-based systems.

Mr. Blinderman, who is also a member of the New York office of Proskauer Rose, served for fourteen months in Iraq, first as an associate general counsel of the Coalition Provisional Authority, and, later, as chief legal counsel to the Regime Crimes Liaison Office. During his time in Iraq, he advised senior members of the United States and Iraqi governments on matters of public international law, commercial law reform, and international criminal law. He worked principally with the Iraqi Special Tribunal, assisting in the drafting of the Tribunal’s rules of evidence and procedure, coordinating training conferences for the Tribunal’s members, and aiding in the collection of forensic and other evidence necessary for ongoing prosecutions.
Peruvian Truth Commission Member Speaks at Law School

On November 28, the Berger International Speaker Series hosted a talk by Carlos Ivan Degregori, entitled “The Peruvian Truth Commission: Findings and Consequences Two Years Later.” Mr. Degregori was a member of the Peruvian Truth and Reconciliation Commission (TRC) formed by the Peruvian government in 2001. He was head of the editorial committee that issued the Final Report of the TRC in August 2003.

Between 1980 and 1999, Peru experienced the most violent armed conflict in all of its republican history. In July 2001, after the fall of Alberto Fujimori’s authoritarian regime, the transitional government named a Truth and Reconciliation Commission to reconstruct the history of that process and help bring to justice the main perpetrators of crimes and human rights violations during that period. Mr. Degregori’s lecture at Cornell focused on questions of ethnicity, racism, and political violence in a diverse society, drawing from the findings of the Peruvian TRC and the human rights situation two years after the handling of its final report.

In 2005, Mr. Degregori was a visiting professor at Princeton University’s Program in Latin American Studies. He teaches regularly at Universidad Mayor de San Marcos in Lima and is a senior researcher at Instituto de Estudios Peruanos (IEP).

Law School Hosts International Visiting Scholars, Clarke Fellow during the Fall Semester

The Law School welcomed Boo Chan Kim, professor of international law at the College of Law and Political Science, Cheju National University, in Korea, as a visiting scholar for two months during the fall 2005 semester. He worked with Professor Ndulo on his research interests, global governance and the UN system.

Dr. AnnJanette Rosga, assistant professor in the department of sociology at the University of Colorado, is in residence during the 2005-06 academic year as a Clarke Fellow. She is working on research involving Thailand, and consulting with Professor Annelise Riles in the Clarke Program in East Asian Law and Culture.

José Piñeiro, a junior faculty member from the University of Pompeu Fabra, in Barcelona, is a visiting scholar during the 2005-06 academic year. His primary research interests are torts and sports law.

Finally, Wu Xiaohua (“Mac” Wu), a Kenneth Wang scholar from Soochow University and a Ph.D. candidate, was in residence as a visiting scholar from September 2005 through April 2006, pursuing his research on transparency in Chinese government (freedom of information).

Timothy J. Webster ’06 Wins Clarke Program Student Essay Competition Award

On September 8, the fall semester just underway, the Clarke Program launched its event series with the annual student prize ceremony, an opportunity to recognize a piece of original student-written work, and a pretext to celebrate this student’s accomplished research and scholarship. Professor Annelise Riles presented the Annual Clarke Program in East Asian Law and Culture Student Essay Competition Award to Timothy J. Webster ’06 for his sophisticated analysis of particular transnational issues in Asia in his essay, “Sisyphus in a Coal Mine: Responses to Slave Labor in Japan and the United States.”

Mr. Webster opened his presentation of his essay with a discussion of the redress of atrocities from World War II by stating that his topic concerned global trends, human relations, and human rights. His examination of cases representative of the war compensation movement both in Japan and in the United States delved into a critical assessment of the ways in which legal reasoning has framed the unsettling notion of slave labor, and outlined different types of responses to plaintiffs’ claims. He examined how the law responds to the category of victim and plaintiff, pointing to the underlying normative structures of the legal response to individual versus collective claims against the State.

Mr. Webster’s academic background is composed of an impressive combination of graduate work in Asian languages and literature. He will be spending part of his third year of law studies interning at the UN in Japan, one of the only Cornell J.D. students ever to be granted an externship in Asia.

Timothy J. Webster ’06 responding to questions during the presentation of his award-winning essay
The Death Penalty in China
In early December, James V. Feinerman of the Georgetown Law Center spoke to a room full of law students, Cornell undergraduates and faculty, on the subject, “The Death Penalty—with Chinese Socialist Characteristics.” The Clarke Program in East Asia Law and Culture sponsored the talk. Professor Feinerman described the overwhelming number of executions that have occurred throughout recent Chinese history, especially during the “strike hard campaigns” aimed to crack down on China’s growing crime problem. Defendants have been sentenced to death for a range of crimes ranging from embezzlement, burglary, and tax evasion to kidnapping and trading illicit drugs. However, these campaigns are generally typified by hastening judicial processes, resulting in few, if any, significant safeguards against wrongful convictions. Between April and July of 2001 alone, 1,781 executions took place in China.

Professor Feinerman also detailed the history of the Chinese death penalty, and explained how the executions are thought to serve as an example for others, “killing the chickens to scare the monkeys.” In order to prevent the Chinese authorities from executing innocent people in these speedy trials, a three-branch court is being proposed to conduct reviews.

From 1982-83, Professor Feinerman was the Fulbright Lecturer on Law at Peking University. He returned to China in 1989 after he was awarded a MacArthur Foundation fellowship to study China’s practice of international law. He currently serves as the deputy director of the Asian Law and Policy Studies program at the Georgetown Law Center.

Cornell Law School’s Exemplary Public Service Awards
The Law School is very proud of the alumni who contribute to the public good through their work with public interest organizations, government agencies, and law firm pro bono projects. To recognize some of those individuals, six Cornell Law School alumni were selected to receive the first annual Exemplary Public Service Awards. “The graduates of Cornell Law School have a long tradition of using their legal skills to support the public good, whether in government jobs, public-interest positions, or private practice. It is fitting that we celebrate these public-service contributions, often made with considerable personal and financial sacrifice,” said Dean Schwab. “Presenting annual Exemplary Public Service awards gives these Cornellians the recognition they deserve, and demonstrates in a very meaningful way that the Law School has a strong and ongoing commitment to public interest law.”

The nominations for the awards were solicited from the Law School’s alumni, faculty, and staff, and could be experienced attorneys or recent graduates from anywhere around the world. The resulting winners, highlighted below, were selected by the Law School’s faculty/student Public Service Committee.

Helaine Knickerbocker ’51 is a retired staff attorney with the Gay Men’s Health Crisis, which provides a broad array of legal services to men and women afflicted with AIDS. Ms. Knickerbocker also served as a staff attorney with Cambridge and Somerville Legal Services, representing indigent clients in employment discrimination, housing and medical benefits cases, and as an attorney with the New York City Human Resources Administration, handling child abuse and neglect cases in Family Court. She was appointed by then governor Michael Dukakis as Associate Commissioner of Labor and Industries and Chair of the Commonwealth of Massachusetts’s Board of Conciliation and Arbitration.

Paul W. Lee ’76, a partner with the law firm of Goodwin Procter in Boston, Massachusetts, founded the National Asian-Pacific American Bar Association’s Partner’s Community Law Fellowship. This group was created to address the shortage of attorneys working on behalf of the Asian Pacific Ameri-
Mr. Lee also served as past president of the National Asian Pacific American Bar Association, and is a founder and past president of the Asian American Lawyers Association of Massachusetts. He is a founder and board member of the Asian Community Development Corporation, and a board member of the Asian Task Force Against Domestic Violence. Additionally, Mr. Lee served a three-year term as a member of the Board of Governors of the American Bar Association.

Angelica Matos ’99 is currently the executive director of Junta for Progressive Action, a Latino, community-based nonprofit organization whose mission is to provide services, programs and advocacy that improve the social, political and economic conditions of the Latino community in Greater New Haven. She began her legal career at the Federal Defender Association of Philadelphia, Capital Habeas Unit, representing indigent prisoners on death row in federal habeas proceedings. Ms. Matos is the recipient of a 2005 New Frontier Award, presented annually to two exceptional individuals whose contributions in elective office, non-elective community service, or advocacy demonstrate the impact and the value of public service in the spirit of John F. Kennedy.

Elizabeth Padilla ’02 (awarded posthumously), began her legal career at the Family Law Center in New York, providing pro bono legal services to indigent persons suffering from terminal illnesses, primarily people living with HIV-AIDS. In 2004, she joined the Brooklyn Bar Association Volunteer Lawyers’ Project (VLP), which offers free legal assistance to financially eligible low-income residents of Brooklyn. Ms. Padilla also worked as a volunteer for Human Rights Watch, taught English as a second language, and worked in a soup kitchen run by New York Cares, a volunteer organization.

Martha A. Roberts ’82 works with Legal Assistance of Western New York, in Geneva, New York, where she is the attorney staffing the Geneva office’s Fair Housing Enforcement Project. In this capacity, she investigates, evaluates, and litigates housing discrimination cases. From 1982-1986, she was a staff attorney with the Public Utility Law Project in Rochester, New York, representing the interests of low-income utility consumers in the courts, before state agencies and the legislature. Ms. Roberts subsequently joined Legal Assistance of the Finger Lakes, now a division of Legal Assistance of Western New York, Inc., working first as a staff attorney, and then as a supervising attorney. Thoughout her career, she has provided direct representation to thousands of low-income and other vulnerable people in several upstate New York counties.

Michael Wright ’94 joined the U.S. Attorney’s Office in Washington, D.C., in 1997, working in a number of divisions, including District Court Narcotics, where he tried a number of cases and was responsible for several major investigations. He transferred to the U.S. Attorney’s Office in Miami, working initially in the Narcotics Section, and then becoming the Deputy Chief of the Major Crimes Section. Upon transfer to the Economic Crimes Section, he was co-counsel on a case involving corporate officers who illegally mishandled more than twenty million dollars’ worth of Russian loans. Mr. Wright is now with the U.S. Attorney’s Office in Houston, in the Organized Crime Section, where he heads up the Anti-Gang Task Force.

Each of these people were presented with the public service awards as the highlight of this year’s Public Service Law Alumni Reception on February 9, in New York City. As an added bonus, the Class of 2006 Public Interest Graduation Awards were also presented to eight students during the reception. These latter awards included the Freeman Award for Civil and Human Rights, which was awarded to ’06 classmates Ralph H. Mamiya, Namita Gupta, and Sharon F. Linzey. Elizabeth A. Hogan, Noah M. Mamber, and Lei K. Young received the Stanley E. Gould Prize for Public Interest Law. The Seymour Herzog Memorial Prize was shared by Jesse M. Dubow and Matthew V. Walker.
David P. Mason ’88 Endows Scholarship
Cornell Law School has received a new scholarship, endowed by David P. Mason ’88, a partner of Debevoise and Plimpton in employee benefits and executive compensation law. The award, known as the David P. Mason ’88 Law Scholarship, will provide financial assistance to a first-year student beginning with the fall term of 2006. Mr. Mason has long been a supporter of the Law School, having previously contributed in honor of Thomas T. Adams ’57, a family friend and former member of the Law School Advisory Council. Advisory Council member Franci J. Blassberg ’77, who is a partner of Debevoise and Plimpton in mergers and acquisitions, private equity, and corporate governance, and currently serves on the Law School’s Campaign Cabinet, acted as the catalyst for Mr. Mason’s present gift. “I know David shares my affection for the Law School,” said Ms. Blassberg, “and at the Curia Society dinner last fall we discussed the idea of a significant gift.” Mr. Mason recalls that his senior colleague spoke persuasively to the point that “the time was right” for him to step forward.

Mr. Mason has wide-ranging interests in the Law School but settled on a scholarship endowment. “It could have been used for almost anything,” said Mr. Mason of his gift. “All money is fungible. But I decided to fund a scholarship because, given the cost of tuition, that seemed the most appropriate use.” Appropriate, indeed, for nearly 50 percent of Cornell Law students receive financial assistance from the Law School; without such funding, most of these students would never matriculate at Cornell Law School. Accordingly, the Mason Law Scholarship will be administered by the Financial Aid Office and the award made primarily on the basis of demonstrated need, with other criteria yet to be defined.

In congratulating Mr. Mason on his generous gift, Dean Schwab emphasized that the scholarship will benefit the entire Law School, as well as the student who receives it: “Like all costs associated with higher education, law school tuition is on the rise, and we are always grateful for any gift that helps talented students attend Cornell. It’s crucial that we enroll highly qualified students regardless of their financial resources, as well as offer competitive faculty salaries and fund key projects, to keep Cornell at the forefront of legal education. A gift like David Mason’s helps ensure that we will achieve these goals and maintain this status.” Mr. Mason himself speaks modestly of his contribution when he says, “I have no agenda whatsoever, other than to help the Law School,” but Ms. Blassberg is more effusive; of David Mason, she says, “I’m very proud of my partner. He’s a great lawyer and a great and loyal supporter of the Law School.”

Arthur H. Rosenbloom ’59 Endows Library Fund
Cornell Law School students and faculty will soon have access to print and electronic media related to Israeli law, thanks to Arthur H. Rosenbloom ’59. Mr. Rosenbloom, a senior consultant at CRA International and himself the author of more than seventy articles on topics related to investment banking (see Forbes, Inc., Business Week, and The Harvard Business Review, et al.), has established the Arthur H. Rosenbloom J.D. ’59 Law Library Endowment to facilitate the acquisition of scholarly monographs, current statutes, and computer databases, thereby augmenting the Library’s holdings of international law materials.

Mr. Rosenbloom reports that he was inspired to make this gift during the meeting of the Law School Advisory Council last September, when fellow Advisory Council member Sheppard A. Guryan ’67 had the satisfaction of seeing the Law Library accession its 700,000th volume, Form and Function in a Legal System: A General Study, by Professor Robert S. Summers, which the Library acquired with funds provided by the Sheppard A. Guryan Law Library Endowment on the History of Jurisprudence and American Legal Thought. The ceremony that marked this milestone, together with the intellectual ferment at the Clarke Center for International and Comparative Legal Studies and Mr. Rosenbloom’s own interest in Israeli law, made a Library Endow-
ment something of natural choice. “It’s important for Israeli law to be represented in the larger context of the Clarke Center,” says Mr. Rosenbloom, “because the Israeli legal system is not like other legal systems in that part of the world.” Indeed, the Israeli legal system, says Edward Cornell Law Librarian and Professor of Law Claire Germain, “is a hybrid built on a foundation of Ottoman law—itself a mixture of French, Swiss, and Italian influences—and includes elements of civil law and British common law, as well as religious law, the latter governing aspects of personal conduct and family matters.”

Professor Germain emphasizes that the Rosenbloom Endowment is especially important because it enables the Law Library to build its collection of Israel law material in both print and electronic media—enhanced holdings that will support Law School programs in international and comparative law that are important to both J.D. and L.L.M. students at Cornell, and to legal scholars everywhere. “Do you realize,” asks Professor Germain, “that Cornell Law School is poised to become the premier research center for comparative law and culture? The Middle East, of course, is of particular interest, as evidenced by the Clarke Center and the Clarke Middle East Legal Studies Fund, but we are strengthening all of our international law resources. Of Israel in particular and the Middle East in general, I will name just a few areas of obvious interest: the legal status of Jerusalem; water rights in a region that is essentially desert; cultural rights of ethnic and religious minorities; and extradition law.”

In addition to the tangible benefits that will accrue to the library from such substantial funds, Mr. Rosenbloom hopes his contribution will encourage others similarly disposed to support scholarly causes to make a similar gift. “Shep Guryan’s generosity inspired me,” says Mr. Rosenbloom; “If I inspire someone else, that’s a good thing.”

Library Summer Research Survey Results
In mid-October the Law Library sent an email to the second and third year students inviting them to complete an online survey regarding their summer research experiences. They received 119 completed surveys. After crunching the numbers, some of the results are as follows.

During the summer months, most students worked for law firms, with smaller numbers working for federal, state, or local governments, judges, and law faculty. Researching was a part of the daily routine for 79 percent of respondents. The main areas of law researched were criminal law, civil procedure, real property, labor and employment, securities, contracts, and intellectual property. Most students had access to Westlaw (84 percent) or Lexis (82 percent). A smaller number used other Internet sources ranging from free websites, such as LII and government pages, to subscription-based sources, such as LiveEdgar and BNA databases.

Print materials were used by 90 percent of respondents up to 50 percent of the time, with another 7 percent using print materials between 50-100 percent of the time. Books were often consulted before online resources at the beginning of a project. After using print resources, 90 percent of students used “mostly computers” in their research. Many students commented that legal encyclopedias and treatises in print are a great way to learn about unfamiliar areas of law.

Each spring, the Law Library offers appointments with Library research attorneys to discuss their area of summer practice or to brush up on research skills. 13 percent of respondents reported that they did have a session and found the experience very helpful. 53 percent of students expressed interest in additional legal research instruction. By far the most requested topic for instruction was advanced online research (40 percent), with administrative law (5 percent) a distant second.

“Chisum on Patents literally saved my summer job experience.” In response to the question “were research appointments useful?” one person wrote in “YES!” “I would only suggest that more students take advantage of it if they work outside of New York State,” wrote another. “… it was invaluable!” The Library librarians and staff members appreciate everyone’s assistance in compiling this information, which will be used to assist students in the coming summer months.

Law School Is the New Home of Institute for the Social Sciences
The arrival of the fall semester also heralded the arrival of Cornell’s Institute for the Social Sciences (ISS) at the Law School. In a move that further enhances the Law School’s already strong reputation for interdisciplinary and empirical legal scholarship, Dean Schwab offered to house the Institute’s faculty and staff in Myron Taylor Hall’s newly renovated first floor. David Harris, the vice provost for social science at Cornell and executive director of ISS, sees the relationship with the Law School as a natural, noting that “social science has a lot to offer to legal studies and vice versa… The space for the offices works well with our mission. It encourages collaboration.”
A large conference area was created for the ISS during recent renovations. The first conference in their new setting was on October 20, when they sponsored a seminar entitled “How Do Biology and Culture Fit in a Theory of Family Change?” Meanwhile, classes are being held in the ISS environs, as well as a film series and ongoing projects and conferences as part of the ISS’s various themed projects.

The ISS is modeled partly on Cornell’s Society for the Humanities. What’s different and unique about the Cornell institute is its thematic approach, according to Elizabeth “Beta” Mannix, the recently-named director of the ISS. Each year a specific theme is selected, and faculty across campus are invited to submit proposals, with three years to plan, put into action, and complete them. They range from co-instructed courses to collaborative projects, workshops, journal articles, and books. “The main idea is to foster interdisciplinary connections among people,” Ms. Mannix says.

Ms. Mannix is a longtime member of Cornell’s Social Sciences Advisory Council, the group that guides ISS. “We wanted to do with the social sciences what Cornell has done with the life sciences—to bring them together on campus,” she says. “We have great resources in terms of faculty, great intellectual capital, but they’re dispersed. And we knew we could do a better job at hiring and retaining top-flight social scientists.” The ISS is located at 148 Myron Taylor Hall. More information about the Institute can be found at www.socialsciences.cornell.edu.

**First Year Student Publishes Book**

Gregory S. Parks ’08 is the co-author/co-editor, with Tamara Brown and Clarenda Phillips, of *African American Fraternities and Sororities: The Legacy and the Vision*. It was published by the University Press of Kentucky in 2005, and debuted at the number one spot on *Essence* magazine’s best-seller list in August.

Before the emergence of the major civil rights groups of the twentieth century, there were African-American fraternities and sororities. These groups did not merely serve as social groups; they also provided a space from which college-educated African-American men and women could uplift the race. *African American Fraternities and Sororities* is the first substantive and multidisciplinary look at the history, culture, and contemporary issues facing these groups.

Co-author/co-editor Gregory Parks is first year law student at Cornell. He is also a member of Alpha Phi Alpha Fraternity—the oldest of the intercollegiate African-American fraternities. Alpha Phi Alpha was founded at Cornell University in 1906.

**CLS Celebrates First Hispanic Heritage Month Speaker Series**

For the first time, the Latina/o American Law Students’ Association (LALSA), in conjunction with Cornell Law School, celebrated Hispanic Heritage Month by presenting a speaker series consisting of distinguished Latino legal professionals and professors. Hispanic Heritage Month takes place every year between September 15 and October 15, and is meant to recognize the important contributions all Latino groups make to the fabric of the nation. LALSA wanted to bring this celebration home to Cornell Law School by inviting Latino legal professionals to address the law student body.

The first speaker, Michael Jones-Correa, is an associate professor of Government at Cornell University, and a nationally-known scholar of Latino politics and immigration. He laid out the demographics of the nation’s largest minority group, and describing its impact upon U.S. politics. Though Latinos have traditionally voted Democratic, Latinos truly are a “swing” voting bloc, he explained, not only because they are moving into new areas of the country, but because they also generally hold much more conservative social values than the average Democrat. This is especially true now because Latino immigrants, who hold very

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Professor Ndulo participated in this year’s acclaimed New Student Reading Project. The book discussed by the Cornell and Ithaca community this year was Nigerian author Chinua Achebe’s novel *Things Fall Apart*. Professor Ndulo (center) is pictured above with Louise A. Pacock (an exchange student from the University of Sydney), Jeanna L. Composti ’08, Natalia M. Resivo (an LL.M. student from Russia), and Christian D. Eckeart (an LL.M. student from Germany) following their discussion of the book with the Law School’s Advisory Council.

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conservative social values, are naturalizing and becoming active voters. Consequently, President Bush picked up close to forty percent of the Latino vote in 2004, and Democrats are searching for a strategy that will bring Latino voters back to the Democratic Party.

Nelson A. Castillo, president of the Hispanic National Bar Association, spoke about how Latino lawyers are now involved in every aspect of the legal world. He both motivated and grounded the students by encouraging them to set astounding goals for legal accomplishment, while at the same time reminding them to give back to their community. Though the number of Latino attorneys is increasing, Mr. Castillo explained, a Latino lawyer will still have to overcome many obstacles to success. The hiring and promotion processes in the legal field are not yet colorblind. Mr. Castillo expressed how the strength one would need to overcome those challenges could oftentimes be found in one’s community.

Walter Rivera, the final speaker, received his B.A. from Columbia University in three years, graduated from the University of Pennsylvania Law School, and was the first Latino to clerk with the New York State Court of Appeals. Mr. Rivera is a partner in the small firm of Rivera, Hunter and Colon in New York City, and spoke to the students about how to open an independent practice. Mr. Rivera shared his personal insights into life as an attorney, and also provided helpful, practical advice to the students. Mr. Rivera described how, as an independent practitioner, an attorney is always “on the job,” because everyone is a potential client. Moreover, in order to ensure the success of a small firm, an attorney must make certain that the client base is diversified. Mr. Rivera also raised an interesting point; he talked about the rising number of independent Latino attorneys who have now joined large firms as partners, because clients are now insisting on diversity. When asked whether this was a positive step, he indicated that the jury is still out because it is simply too soon to tell.

Moriah Radin, LALSA’s secretary, said the Hispanic Heritage Month Speaker Series was a success because each speaker spoke from a different perspective. “We had a true academic, a motivational speaker, and a speaker who gave us the practical advice we’ll need to become successes in our own right.”

Two Cornell Law Students Receive MCAA Fellowships

The Minority Corporate Counsel Association (MCCA) recently announced eighteen winners of the Lloyd M. Johnson Jr. Scholarship Program, a professional development program geared to align diversity efforts with global business goals by increasing access to opportunities for students earlier in their careers. This year the MCCA has selected two Cornell Law School students to receive fellowships: Patricia Astorga and Heidy M. Abreu, both class of ’08. “Cornell Law is fortunate to have such talented students,” said Naomi K. McLaurin, managing director of the southeast region for the MCCA. “I foresee great things in both their futures.”

Ms. Astorga is currently a first-year law student at Cornell Law School, where she is a representative for the Asian Pacific American Law Students Association and a member of Phi Delta Alpha. She graduated magna cum laude and Phi Beta Kappa from New York University in May 2005 with a double major in Politics (Honors) and Psychology and a minor in Philosophy. Ms. Astorga worked as a legal assistant from 2002 to 2004. She has also interned with the D.C. Office of the Attorney General (2005), the office of Senator Hillary Clinton (2002), and the Legal Aid Society (2001).

Ms. Abreu is currently a first year J.D./LL.M. in International Law at Cornell Law School, and is interested in corporate law at the international level. She spent last year in Japan as a JET Program participant. As part of the class of 2004 at Dartmouth College, she double majored in psychology and sociology, wrote an honors thesis, and was a Presidential Scholar. As an undergraduate she was also on the board of directors for several community service projects, including a medical and engineering brigade in Nicaragua, and a summer school in her place of birth, the Dominican Republic.
The Lloyd M. Johnson Jr. Scholarship Program (named after the founder of MCCA) enables the MCAA to present scholarships annually to outstanding students, enabling them to eventually pursue careers in law. Organizations from the nation’s leading Fortune 500 companies and top legal offices in the nation currently participate as sponsors in the program. The program reflects the largest financial commitment by a legal organization for the support of diversity scholarship and education in the history of the profession. The primary factor that distinguishes this program from others is a three-year financial commitment by participating organizations to integrate first-year students into strategic positions in leading corporate law departments.

“Over the years, I’ve realized that the difference between professional success and failure boils down to whether you have three things going for you—knowledge, access, networks—I call it K-A-N,” said Lloyd Johnson, Jr., MCCA’s founder and first executive director. “This scholarship program is designed to offer more than financial support to earn a degree and achieve the ‘K’ part of the equation. This program is different from others because it also offers career development support, the type of support that opens access to opportunities and helps to build a network of mentors and supporters.”

“It’s all about grooming future leaders,” said Veta Richardson, MCCA executive director. “After reviewing more than 580 applications, MCCA presented a group of forty finalists to our selection committee, which consisted of people who are remarkable leaders—highly successful general counsel, law firm partners, business executives. I knew we made the right choice when this elite group of leaders remarked on the high quality of our candidates, and several law firms wanted to hire them right on the spot.”

Robert E. Fischer ’42
1917–2006
Robert E. Fischer, a State Supreme Court judge who prosecuted organized crime in New York and launched the state’s criminal investigation into the 1971 Attica prison riot, died on February 16. He was 88.

After graduating from Cornell Law School during World War II, Robert Fischer immediately entered the Navy. He was awarded a Silver Star for his bravery on the beaches of Okinawa, the scene of some of the war’s fiercest combat. Upon his return, he joined his brother in private practice in their hometown, Binghamton, then was elected district attorney for Broome County. Later, as a special prosecutor, Mr. Fischer won convictions against numerous public officials in several New York counties. In 1967, the governor appointed him judge for Broome County. He was elected to a ten-year term on the bench the next year, but his term was interrupted when he was selected to serve as a deputy attorney general, investigating and prosecuting organized crime operating in the state.

In 1971, then-Governor Rockefeller asked Judge Fischer to conduct a broad inquiry into any criminal conduct that arose out of the Attica Correctional Facility riot that resulted the death of thirty-two inmates and eleven prison employees. Mr. Fischer continued in his dual role as head of the Attica investigation and head of the state’s Organized Crime Task Force until the end of 1973, when he was elected a State Supreme Court justice. “He was a great judge, a fair judge,” said Frederick Meagher Sr., a longtime Binghamton attorney and acquaintance of Judge Fischer.

After twenty years as on the State Supreme Court, Judge Fischer retired to join his son, Kelly, as a partner in the Fischer and Fischer law firm in Binghamton. In addition to his son, Judge Fischer is survived by his daughters, Kimberly Fischer-Geiger, Diane F. Stevens, and Laurie F. Hefflin, and numerous grandchildren and great-grandchildren.
Gregory S. Alexander, the A. Robert Noll Professor of Law, presented a paper entitled “Trust Protectors: Who Will Watch the Watchman?” at a conference on “Trust Law in the Twenty First Century” at Cardozo Law School in September. The paper will be published in a future issue of the Cardozo Law Review. In November, he delivered the keynote lecture at the annual Property, Citizenship and Social Entrepreneurism conference, sponsored by Syracuse University, in Washington, D.C. His lecture was titled “The Formalist Trap: Text and Tradition in Global Constitutional Property Law.” In October, Professor Alexander traveled to South Africa, where he was a visiting fellow at the Stellenbosch Institute for Advanced Study and visiting scholar of the law faculty at the University of Stellenbosch.

Professor Alexander completed work on his book, The Global Debate over Constitutional Property, to be published this spring by the University of Chicago Press. Along with Professor James Krier (Michigan) and Dean Michael Schill (UCLA), he also completed work on the sixth edition of the widely-used casebook, Property (Aspen), whose previous authors were the late Jesse Dukeminier and James Krier. The book will be published in 2006.

John J. Barceló, the William Nelson Cromwell Professor of International and Comparative Law, was a panelist at an International Chamber of Commerce conference on International Dispute Resolution held in Torrey Pines, California, in mid-September. During his talk on “Anti-Suit Injunctions in International Commercial Arbitration,” he explained that anti-suit injunctions could be used either to support or to oppose enforcement of arbitration agreements and awards. Professor Barceló suggested that at least the spirit of the 1958 New York Convention on Recognition and Enforcement of Foreign Arbitral Awards argued for a very restrictive approach to anti-suit injunctions in the arbitration context. In October, Professor Barceló was also a panelist at a faculty workshop on the Supreme Court’s wine-shipment cases, including the recent Swedenburg decision. As the author of the Second Circuit’s Swedenburg opinion, Judge Richard Wesley ’74 was the featured speaker on the panel, which also included Professor Bernadette Meyler.

Professor Barceló submitted the manuscript for the third edition of his casebook on International Commercial Arbitration—A Transnational Perspective (with co-authors Tibor Varady and Arthur von Mehren). He also submitted the manuscript for the third edition of the Documents Supplement to accompany the book. Thomson/West will publish both volumes in early 2006. He is at work updating the third edition of the Teachers’ Manual for use with the book. Professor Barceló completed revisions of his paper on “The Status of WTO Rules in U.S. Law,” which will be published as chapter 11 of a volume on Rethinking The World Trading System (J. Barceló and H. Corbet, eds.) to appear in 2006.

Throughout the fall semester Professor Barceló worked on organizing a major conference on “Dismantling Discrimination in the WTO System” to be held in Beijing in May of 2006, in cooperation with Peking University and the Cordell Hull Institute in Washington, D.C. The meeting in Beijing is also being sponsored by China’s Ministry of Commerce and the China Foreign Languages University. It will include concurrent participation and separate activities for Cornell Law alumni, including an additional meeting and program in Shanghai, China, immediately after the conference ends.

In July, Professor Barceló served as co-director of the 2005 Cornell-Paris I Summer Institute program in Paris, and taught International Commercial Arbitration in the program’s curriculum. As Elizabeth and Arthur Reich Director of the Berger International Legal Studies Program, Professor Barceló moderated some of the events in the Berger Program’s fall lecture series at the Law School. He also served as a member of Vice-Provost David Wippman’s International Studies Advisory Council, and as a member of the Steering Committee of the Institute for European Studies on campus.

John H. Blume, professor of law and director of Cornell Law School’s Death Penalty Project, published an article in the Journal of Criminal Law and Criminology: “Reliability Matters: Reassociating Bagley Materiality, Strickland Prejudice and Cu-
mulative Harmless Error.” The article maintains that given the Supreme Court’s emphasis on verdict reliability, courts should embrace a more expanded doctrine of prejudice examining all errors that may have impacted upon the jury’s verdict.

Professor Blume was a featured speaker at the National Habeas Corpus Seminar held in August in Pittsburgh, Pennsylvania. He made several presentations addressing the proper interpretation of various provisions of the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA). Professor Blume was also invited to speak at the annual meeting of the American Academy of Psychiatry and the Law held in October in Montreal. He discussed his recent article in the Michigan Law Review, “Killing the Willing: Volunteers, Competency and Suicide.”

Professor Blume, along with a number of other habeas scholars, also filed an amicus curiae brief in the United States Supreme Court in Day v. Crosby, a case in which the High Court granted certiorari to resolve an issue regarding whether AEDPA’s statute of limitations can be waived.

Charles D. Cramton, assistant dean for graduate legal studies, concentrated his efforts on the Graduate Legal Studies Program (LL.M. and J.S.D.) at the Law School. Over the summer he was re-appointed by the president of the New York State Bar Association to chair the Association’s Committee on Legal Education and Admission to the Bar. In that capacity he interacted frequently with the New York State Board of Law Examiners and other state bar leaders on matters related to legal education and bar admission.

Assistant Dean Cramton is also a member of the Association’s Special Committee on the Bar Examination, which was formed last year to study the overall effectiveness of the bar examination in New York. The Special Committee hopes to have its report completed by the end of 2006. At the end of October, Assistant Dean Cramton completed his second term as one of sixteen members of the New York State Continuing Legal Education Board after five years on the Board. In addition to his duties with the full CLE board, Assistant Dean Cramton sat on the application appeal committee, and was a panelist for the Continuing Legal Education Board’s Accredited Provider Conference held at the New York State Judicial Institute at Pace University Law School in November. He also continued as a member of the executive committee of the American Association of Law Schools’ Section on Graduate Program for Foreign Lawyers, and was a member of the ABA law school site evaluation team that visited the Thomas Goode Jones School of Law at Faulkner University in Montgomery, Alabama, for four days during October.

Roger C. Cramton, the Robert S. Stevens Professor of Law Emeritus, largely completed his work as a reporter for a committee of the New York State Bar Association engaged in a wholesale revision of the rules of professional conduct governing New York lawyers. A complete text of the revised rules, which follow the format of the American Bar Association’s Model Rules of Professional Conduct, will be considered by the state bar during 2006 and, when approved, will be submitted for adoption to a committee of Appellate Division judges.

Professor Cramton spoke on “The Future of Legal Practice in the United States” to a meeting of the Connecticut Bar Association held at the Yale Law School late in October. A few days later, he spoke on “Counseling Organizational Clients ‘Within the Bounds of the Law’” at the 2005 Legal Ethics Conference at Hofstra Law School, Hempstead, New York. He continued to speak and write on the problems created by the lengthening tenure of Supreme Court justices. His proposals for “Reforming the Supreme Court” were the subject of a faculty workshop at the University of Michigan Law School in November, and talks at Kendal at Ithaca in September, and to the Law School’s Boston alumni in December.

Glenn G. Galbreath, senior lecturer and staff attorney in the Cornell Legal Aid Clinic, presented another lecture and demonstration to Child Protective Services Workers regarding trial testimony through the Center for Development of Human Services of the State University of New York in Syracuse. He also did a lecture on judicial ethics to judges as part of the New York Unified Court System’s Advanced Certification Training Programs for Town and Village Justices.

While he continues to serve as the Justice for the Village of Cayuga Heights, his attempt at expanding his judicial duties into the Town of Ithaca was unsuccessful. He nevertheless found the partisan party political race to be fascinating and educational, and he was pleased to have participated.

Stephen P. Garvey published “Passion’s Puzzle” in the Iowa Law Review, in which he argues that the elements of the partial defense of provocation or heat of passion work to distinguish those intentional killings in which the actor kills in defiance of the law, and thus constitute murder, from those in which the actor kills in a moment of weakness of will, or culpable ignorance of the law, and thus constitute the lesser offense of voluntary manslaughter.
Claire M. Germain, the Edward Cornell Law Librarian and Professor of Law, participated in the annual meeting of the American Association of Law Libraries (AALL) in San Antonio, Texas, as vice president, and took office as president of the Association for one year, culminating in the centennial celebration of the association (founded in 1906) in St Louis in July, 2006.

During the Paris Summer Institute in July, Professor Germain co-taught a course in French law with Professor Blanc Jouvan, LL.M. ’54. She traveled on behalf of AALL to Norway, for the annual meeting of the International Federation of Library Associations (IFLA), and to Florence, Italy, for the annual meeting of the International Association of Law Libraries (IALL), where she also serves as IALL Web director. In October, she attended the semi-annual meeting of law library directors in the NELLCO Consortium (New England Law Libraries Consortium) in Chester, Vermont. That same month, she attended the Federal Depository Council meeting in Washington, D.C., where she met with U.S. Senate staff, including Kennie Gill, Minority Counsel, Senate Rules and Administration Committee.

Professor Germain made presentations at two meetings of the ABA Council of the Section on Legal Education and Admission to the Bar, one in Chicago, Illinois, in August, and the other in San Diego, California, in December. She presented reports on the activities of AALL, on promoting the value of law librarians to the legal community, and on efforts to encourage state and federal governments to authenticate the electronic versions of their court opinions, session laws, and codes.

Valerie P. Hans spent the fall as a visiting scholar at the Law School, and joined the faculty as Professor of Law in the spring. During the fall semester, she settled into her office at the Law School, began planning new courses, and relished the opportunity to work on ongoing research and writing projects.

Along with her long-time collaborator, Duke law professor Neil Vidmar, Professor Hans is writing a book about the jury system. The book will examine current controversies over trial by jury, drawing on their own and other scholars’ research findings about civil and criminal juries to craft proposals for reform. Professor Hans also completed work on an edited collection of contemporary scholarship on the jury system, due to be published by Ashgate in the fall of 2006. The book combines new articles on the historical and modern development of jury systems, as well as research studies on jury selection, jury decision making, and jury reform. She was invited to analyze “The Twenty-First Century Jury” for Criminal Law Brief. Her article, published in March 2006, discusses current trends, including hotly-debated legal developments over jury trial rights, as well as new empirical findings about jury decision-making.

In October, Professor Hans served as a discussant in Cornell Law School’s Junior Empirical Legal Scholars Conference. The conference, hosted by the Law School and the Journal of Empirical Legal Studies (see page 25), brought together junior and senior empirical scholars to engage in intensive discussions of the junior scholars’ work. She provided comments on a presentation in November by Cornell Law School graduate William Lee ’76 to the law school community on Jury Trials in Patent Cases (see page 25). She also spoke at the annual meeting of the American Association of Law Schools, participating on a panel sponsored by the Section on Evidence about empirical research on evidence.

A review essay by George A. Hay, the Edward Cornell Professor of Law and Cornell University professor of economics, of Economic Essays on Australian and New Zealand Competition Law (by Maureen Brunt) was published in the Summer 2005 issue of the Antitrust Bulletin. His article, “Trinko: Going All the Way,” was published in the Winter 2005 issue of the Antitrust Bulletin. He remained involved as a consultant and expert witness in the largest (and most publicized) antitrust case in the history of Australia, involving the television rights to Australia’s major sports, which has been in trial since early September, and will continue well into the spring of 2006.
Professor Hay chaired the Distinguished Jurist-in-Residence Committee and the Administrative Committee, and also served on the University Hearing Board and the University’s FACTA Committee, which reviews tenure files for all units in the University.


In early September, Robert A. Hillman, the Edwin H. Woodruff Professor of Law, traveled to San Francisco to present Preliminary Draft No. 2 of Principles of Software Contracts to his advisors and to the consultative group. The Principles are a project of the American Law Institute. Professor Hillman is the reporter and Dean Maureen O’Rourke of Boston University Law School is the associate reporter.

In late September, Professor Hillman presented a paper, “On-Line Boilerplate: Would Mandatory Website Disclosure of E-Standard Terms Backfire?,” at a conference at the University of Michigan Law School. The paper will be published by the University of Michigan Law Review and as a contribution to a book to be published by Cambridge University Press entitled Boilerplate: Studies in the Foundations of Market Contracts. The article analyzes whether requiring businesses to maintain an Internet presence and to post their standard terms prior to a particular transaction would backfire because the requirement would not increase consumer reading of terms or motivate businesses to draft reasonable ones but, instead, would make suspect terms more likely enforceable.

Professor Hillman prepared another paper entitled “How to Create a Commercial Calamity” for a panel presentation at the 2006 Association of American Law School’s annual convention. The paper is one of several contributions on what the authors identify as the worst aspect of commercial law. The papers will be published by the Ohio State Law Review.

Robert C. Hockett spent most of July and August on three writing projects. The first was an article slated to appear in volume 79 of the Southern California Law Review titled “A Jeffersonian Republic by Hamiltonian Means: Values, Constraints and Finance in an Authentic American ‘Ownership Society.’” The second, which appeared in the fall 2005 issue of the Cornell Law Forum, was a combined précis of the first article and its predecessor, titled “Whose Ownership? Which Society?,” which has since come out in volume 27 of the Cardozo Law Review. The third was a new coursebook, tentatively titled Financial Institutions and Regulation, which Professor Hockett is preparing for publication in both electronic and hardbound form.
In September, Professor Hockett worked on three further projects. First, together with Yale professor Daniel Markovits, he created a website (http://www.givebackthetaxcut.org) which enables visitors to view the effect of recent tax cuts on various income levels (the calculator was kindly donated to the project by the Brookings Institute’s Peter Orszag), and to pledge some or all of their own tax cuts to Hurricane Katrina relief. The site has raised many donation-pledges, in addition to generating a fair bit of weblog discussion of tax policy.

Second, Professor Hockett published a review of Jack Goldsmith and Eric Posner’s The Limits of International Law in the Minnesota Law Review. The third project was an essay on the ethics of global debt relief, which Professor Hockett prepared for presentation at a conference on global debt relief sponsored by the Carnegie Council in New York City in late October. While most discussions of global debt relief center on relatively small, poor, developing countries laboring under severe debt burdens, Professor Hockett’s essay seeks to call attention to the ethical significance of the fact that by far the largest global debtor nation is neither small, poor, nor developing. It is the U.S., which enjoys a privileged position in the global finance-economy, which uses scarce global capital to finance expenditures that are non-developmental in nature, and which in so doing diverts that capital from competing developmental projects and raises interest rates.

Also in September, Professor Hockett took part in a panel discussion of natural disasters and social insurance, sponsored by the Insurance and Society Group at the Harvard Business School. He also wrote an essay and gathered speakers and commentators for the Cornell International Law Journal’s symposium on Global Justice. The symposium, held at the Law School in early April, brought together lawyers, economists, and philosophers to discuss what a just world order will look like, and what we must do to get there.

Sheri Lynn Johnson, professor of law and assistant director of Cornell Law School’s Death Penalty Project, served as the chair of the Law School’s appointments committee and taught Constitutional Law. She published “Wishing Petitioners to Death: Factual Misrepresentations in Fourth Circuit Capital Cases” in the Cornell Law Review.

During the fall semester, Douglas A. Kysar was a visiting professor at Yale Law School, where he taught torts and a seminar on risk regulation. He presented his paper, “It Might Have Been: Risk, Precaution, and Opportunity Costs,” at faculty workshops at Yale Law School and Washington University School of Law, as well as at the International Law Workshop at Harvard Law School, the Legal Theory Workshop at University of California-Los Angeles School of Law, and the Midwestern Law and Economics Association Annual Meeting at Northwestern University School of Law. Also during the fall semester, Professor Kysar’s article, “Sustainable Development and Private Global Governance” was published in the Texas Law Review, and his review of Richard Lazarus’s book, The Making of Environmental Law (2004), appeared in Political Science Quarterly.

Jeffrey S. Lehman was awarded an honorary doctorate degree by Peking University in November. In his acceptance speech, Professor Lehman spoke about how nations’ economies and cultures are built upon infrastructures of law and government. He suggested that great universities have a special opportunity to work together across national boundaries to nurture within each country a better understanding of the legal systems of other countries.

Anne Lukingbeal, associate dean and dean of students, agreed to chair the Bylaws Committee of the National Association of Law Placement (NALP). The Bylaws Committee met in Seattle in July for an extensive discussion of recommended changes. In November, Associate Dean Lukingbeal presented these recommended bylaw changes to the NALP Board of Directors at their November meeting.

At Cornell in September, Associate Dean Lukingbeal moderated (for the nineteenth time!) a panel hosted by the Cornell University Career Center, still titled “More than You Ever Wanted to Know About Law Schools Admissions.” She also agreed to serve on the search committee for the new Cornell University Director of Student Disability Services. In addition, she serves on the Cornell University Mental Health Council. She also served on the 2005-2006 Cornell University Endorsement Committee for the Truman Scholarship.

Peter W. Martin, the Jane M. G. Foster Professor of Law, completed a full revision of his Introduction to Basic Legal Citation, http://www.law.cornell.edu/citation, first published on disk by the LII in 1993. The 2005 edition of this heavily used work reflects changes appearing in the eighteenth edition of The Bluebook, published in 2005, and the second edition of the ALWD Citation Manual, published in 2003. He also updated his online treatise, Martin on Social Security, http://www.law.cornell.edu/socsec/martin, and the companion distance learning course,
which will be offered for the sixth time during the 2006 spring term to students at nine participating law schools.

**Bernadette A. Meyler** published a review of Thane Rosenbaum’s *Myth of Moral Justice* in the fall issue of *Legal Ethics*. The review, entitled “The Myth of Law and Literature,” suggested reasons why law and literature scholarship has reached an impasse and alternative directions the field might take.

**JoAnne Miner**, senior lecturer and director of the Cornell Legal Aid Clinic, continued to teach both externships and the Public Interest in-house clinics. Under her supervision, students represented a number of clients, all of whom had been victims of domestic violence, in a variety of family and matrimonial matters. In addition, students represented clients appealing adverse decisions on claims for Social Security disability benefits.

Ms. Miner updated the *Legal Aid Handbook Family Law Section*, which provides an extensive, detailed overview of New York law governing divorce, custody and visitation, domestic violence, support, and patriarchy.

Ms. Miner serves on the board of directors of the Advocacy Center, which provides services to adult and child victims of domestic violence and sexual assault. In addition, she serves on the board of directors of Legal Aid of Western New York, which provides free legal services to residents of several counties, including Tompkins County. She also continues to serve on the advisory committee of the Parents Apart program, and is a regular presenter for that program.

During the fall semester, **Trevor W. Morrison** presented his paper, “Hamdi’s Habeas Puzzle: Suspension as Authorization?” at faculty workshops at Pepperdine University School of Law and the University of South Carolina School of Law. The paper examines the respective roles of the legislative, executive, and judicial branches in matters relating to the “war on terror,” and especially in cases involving the detention of alleged enemy combatants. It treats the opinions of Justices O’Connor and Scalia in the recent Supreme Court case *Hamdi v. Rumsfeld* as reflecting two very different understandings of habeas corpus and the constitutional separation of powers, and argues that Justice O’Connor’s approach is both formally and functionally superior. The paper will appear in the January 2006 issue of the *Cornell Law Review*.

A condensed version of the paper appears in this issue on page eight.


Professor Morrison also gave a number of other presentations during the semester. He presented a work-in-progress entitled “Statutes Outside the Courts: Executive Branch Statutory Interpretation and the Canon of Constitutional Avoidance,” at the American Bar Association’s 2005 Administrative Law Conference. In addition, he commented on the Supreme Court’s decision in *Gonzales v. Raich* at a conference entitled “Recent Developments in the War on Drugs,” hosted by the *Cornell Journal of Law and Public Policy*. Finally, he was the guest speaker at the Tompkins County Bar Association’s annual dinner meeting, where he addressed the legacies of Chief Justice Rehnquist and Justice O’Connor, as well as the process for nominating their successors.

On September 22, **Muna B. Ndulo**, professor of law and director of Cornell University’s Institute for African Development, gave a seminar in the Cornell Institute for African Development weekly seminar series on the topic “Constitution-Making in Post-Conflict Societies: Lessons from South Africa.” In his talk, he pointed out that in constitution-making, the process is as important as the substance. The process, he argued, should be people-driven, inclusive, transparent, and should be structured in such a way as to ensure effective participation by all stakeholders. The protection of human rights, and especially minority rights, is critical if the resulting constitution is to be enduring.

In October, Professor Ndulo gave a public lecture at Bentley College, Waltham, Massachusetts, at the invitation of the Cronin International Center and International Studies Department. He spoke on the theme “United Nations: Conflicts, Peacekeeping and Reconstruction of Failed States.” In his talk, he examined the challenges faced by peacekeeping operations in post-conflict societies such as demobilization of fighters, reintegration of fighters into society, and the establishment of effective governance structures. A few days later, Professor Ndulo participated in a conference on constitution-building in Africa post-1989, hosted by the Global Legal Studies Initiative at the University of Wisconsin in Madison, Wisconsin. He gave a paper on post-colonial constitutionalism in which he identified three distinct phases: independence constitution; the period after independence and
before the 1980s; and the democratization constitution. Each of three phases, he argued, used different mechanisms of constitution-making.

In November, Professor Ndulo gave a lecture in the Cornell Institute for Public Affairs 2005-06 Colloquium Series. He spoke on the topic “U.N. Peacekeeping and the Challenges of Reconstruction in Post-Conflict Societies.” He observed that the UN has helped an increasing number of conflicts ending in negotiations, and that approximately two-thirds of UN peacekeeping operations missions succeed. UN peacekeeping costs make up about one percent of the military budget, and all seventeen peacekeeping missions last year cost the U.S. government less than one month of combat in Iraq. Professor Ndulo observed that for peacekeeping missions to be successful, they need well-thought-out and effective mandates, commitment by member states to making appropriately trained troops available to the United Nations, and financial, political, and logistical support. The world needs to evaluate peacekeeping operations continuously, with a view to learning from past mistakes and experiences, and making missions more effective.

Jeffrey J. Rachlinski spent the fall as the Eli Goldston Visiting Professor of Law at Harvard Law School. While there, Professor Rachlinski delivered a paper to the Harvard Law Faculty discussing recent research on whether unconscious racism and sexism affect judges. The research demonstrates that, like most adults, trial judges harbor invidious implicit associations concerning women and minorities. But Professor Rachlinski’s research tentatively indicates that these implicit attitudes do not affect the decisions that these judges actually make.

Professor Rachlinski also presented a paper to the law and economics faculty at Harvard on the decision-making skills of insurance and reinsurance executives. The paper shows that these executives, who must manage risk on a daily basis, avoid many of the common pitfalls in judgment that plague lay decision makers. At the same time, however, their expertise makes them vulnerable to a new array of mistakes.

In July, Professor Rachlinski attended a conference at the University College of London on Psychology and Law. He presented a paper at the conference on the role that individual variations in cognitive abilities might play in an assessment of the value of paternalistic legal interventions.

Barry Strom Honored for Thirty Years’ Service to the Legal Aid Clinic

On September 25, Barry Strom, senior lecturer and staff attorney in the Cornell Legal Aid Clinic, was the guest of honor at a luncheon hosted by his clinical colleagues marking his thirty years of teaching in the Legal Aid Clinic. Present and former law school colleagues, along with a number of former students, attended the event. Several students spoke enthusiastically of the influence Mr. Strom had had on them. All of the speakers were employed, or have been employed, in public service positions, and they credited Mr. Strom’s strong commitment to public interest as an important factor in their decisions to seek this work. They also noted the significant role he has played in continuing to mentor and guide them as they have pursued their professional careers. Over the course of his career, Mr. Strom and his students have litigated a number of cases that have had far-reaching effects on the lives of individual clients, and on the lives of countless other low-income and disadvantaged people who also benefited from the cases Mr. Strom pursued.

In his comments, Mr. Strom recalled attending a statewide meeting of legal services attorneys at which nearly half of the attendees were former students. It was a profound reminder of the role he has played in educating and supporting lawyers who dedicate themselves to serving the public interest. Mr. Strom also noted the powerful influence his students have had on his development as an educator and practitioner.

Mr. Strom was presented with a plaque recognizing his thirty years as teacher, lawyer, and friend. He also received a book compiling anecdotes and remembrances that had been submitted by numerous invitees.
This fall, **Annelise Riles**, professor of law and anthropology and director of Cornell Law School’s Clarke Program in East Asian Law and Culture, published “Taking on Technocracy: A New Agenda for the Cultural Study of Law” in the *Buffalo Law Review*. She also published “Introducing Discipline,” an article about the potential contributions of anthropology to human rights, in a special issue of the journal *Political and Legal Anthropology Review* which she co-edited. She also presented chapters from her forthcoming book at the annual meeting of the American Anthropological Association in Washington starting in late November, and at the Ecole des Hautes Etudes en Sciences Sociales, Paris, in December.

**E. F. Roberts**, the Edwin H. Woodruff Professor of Law Emeritus, was elected vice-president of the 721-member Cornell Association of Professors Emeriti for 2006. Notwithstanding, he busied himself preparing to move to his winter quarters in Naples, Florida. Mail sent to the Law School is forwarded there, whence it reaches his base camp on Vanderbilt Beach by pack mule.

Professor Emeritus Roberts has continued to work on his theory that Pontius Pilate upstaged Socrates and asked the crucial question that went unanswered until Mao put his mind to it. The tentative conclusion is that one would do well to consider Ovid’s words: *Bene qui latuit, bene vixit.*

**Faust F. Rossi**, the Samuel S. Leibowitz Professor of Trial Techniques, taught “Introduction to the American Legal System” to foreign students at the Cornell Law School—Paris I Summer Institute of International and Comparative Law held in Paris during July.

In August, Professor Rossi co-taught a “Great Twentieth Century American Trials” course as part of the Cornell Adult University program. During this course he lectured on four famous cases, which included the Tom Mooney dynamiting case, the Billy Mitchell court-martial, *Gideon v. Wainright*, and the Claus von Bulow murder trials. In October, he prepared materials and taught a two-day Continuing Legal Education program for the University of Virginia Law School on recent developments in the law of evidence. Professor Rossi is also preparing an article as part of a symposium issue to be published in 2006 in the *St. Louis University Law Journal* on “Teaching Evidence.”

In the fall semester, **Stewart J. Schwab**, the Allan R. Tessler Dean and Professor of Law, taught Law and Ethics of Business Practice. In this upper-level course, leading lawyers, investment bankers, entrepreneurs and others come as Distinguished Guest Lecturers each week to present case studies of business issues.

Dean Schwab kept his hand in scholarship, completing “The Story of *Hazelwood*: Employment Discrimination by the Numbers.” Co-authored with Dean Steven Willborn of the University of Nebraska College of Law, it will appear as a chapter in *Employment Discrimination Stories*, edited by Cornell ILR alumnus Joel Friedman of Tulane Law School, forthcoming from Foundation Press. *Hazelwood* is a 1977 Supreme Court case that outlined how statistics can be used to prove a pattern or practice of discrimination in employment cases. The article tells the inside story of how the Supreme Court was emboldened to speak of binomial models and standard deviations, and recounts the lasting impact of the decision.

In October, Dean Schwab presented a draft of the Restatement of Employment Law to the Council of the American Law Institute. Dean Schwab is one of four reporters on this first restatement of employment law, along with Samuel Estreicher of New York University, Michael Harper of Boston University, and Christine Jolls of Harvard Law School. Dean Schwab’s focus for this Council draft was on the tort of retaliation in violation of public policy. In November, Dean Schwab presented the draft to an audience of state Supreme Court judges at a conference on Employment Law at New York University Law School.

This semester Dean Schwab began service on the Test Development Committee of the Law School Admissions Council, the organization that develops and administers the LSAT exam.

**Emily L. Sherwin** published a review of Hanoch Dagan’s new book on restitution (“Rule-Oriented Realism,” 103 *Michigan Law Review* 1578 [2005], reviewing *The Law and Ethics of Restitution*, by Hanoch Dagan). In her review, Professor Sherwin questions the compatibility of Dagan’s legal realist approach to restitution with his reliance on determinate rules of law. Professor Sherwin also participated in a meeting in Philadelphia of the advisory committee for the pending ALI Restatement (Third) of Restitution and Unjust Enrichment.

**Steven H. Shiffrin** spent last year preparing the manuscripts for his portion of the co-authored casebooks: *Constitutional Law* (with Jesse H. Choper, Richard H. Fallon, Jr., and Yale Kamisar) and *The First Amendment* (with Jesse H. Choper). Among other things, this meant reading the voluminous literature on freedom of speech, press, and association over the last five years since the
last editions. The manuscript was sent to the printer in January. Professor Shiffrin is now working on an essay entitled “Liberalism and Religion,” an essay that will consider the differences between the European enlightenments and the American enlightenment, together with their impacts on the law.

Gary J. Simson completed “Justice in Particular and Prohibitions on Same-Sex Marriage in the United States” for publication in the forthcoming book, Justice in Particular: Essays in Honor of P.J. Kozyris. In October, as part of Hobart and William Smith Colleges’ philosophy department lecture series, Professor Simson spoke on the significance of ideology in the Supreme Court appointment process, and necessary reforms of that process. Also in October, at an event sponsored by Cornell Law School’s chapter of the American Constitution Society, Professor Simson spoke on Justice O’Connor’s legacy and the Miers nomination. Professor Simson has been the chapter’s faculty adviser since it was formed several years ago.

Professor Simson chaired an ad hoc committee named by Dean Schwab to work with University Counsel’s Office on Cornell University’s possible participation in an amicus brief to the Supreme Court in Rumsfeld v. FAIR, a case challenging Congress’s authority to cut off federal funding from any university whose law school does not treat military recruiters the same as law firms or other potential employers of law school graduates. Ultimately, Cornell University was one of several universities to submit a joint amicus brief on behalf of the challengers. The law school committee also was able to arrange for Cornell Law School faculty who wished to do so to sign on as individuals to an amicus brief filed on behalf of the challengers by the National Association for Law Placement.

Robert S. Summers, the William G. McRoberts Research Professor in the Administration of the Law, had his book, Form and Function in a Legal System—A General Study, published on December 15 by Cambridge University Press, which was founded in 1534, and is the oldest university press in the world. Professor Summers had first given a series of lectures on this subject during 1991–92 while the Arthur L. Goodhart Visiting Professor of Legal Science at Cambridge University. The book is 400 pages in length, and treats a cluster of major themes in jurisprudence and legal theory on which Professor Summers has been working for many years. On September 23, the book was celebrated as the 700,000th book to be added to the Cornell Law Library.

During the fall semester three Spanish students in Professor Summers’s seminar on Jurisprudence and Legal Theory, in which the above book was the focus, were Raquel Serrabassa, Blanca Pardo, and Bernardo Feliu. These students were sent to Cornell Law School from the University of Barcelona by Professor Cesar Arjona, who received his S.J.D. from Cornell University under Professor Summers’s guidance in 2004.

W. Bradley Wendel published an article entitled “Legal Ethics and the Separation of Law and Morals” in the Cornell Law Review. The article considers the conduct of U.S. government lawyers who advised the Bush administration on the conduct of interrogations at Guantanamo Bay, in Afghanistan, and at other undisclosed locations overseas. More broadly, the article addresses the relationship between moral values and legal norms in legal ethics, and argues that it is impossible for lawyers in this situation to provide “pure” legal advice separated from moral reasoning. He also organized a symposium on a new Canadian legal ethics textbook and published an introductory essay in the international journal Legal Ethics. In addition, his essay “The Legalization of Legal Ethics: A Historical Perspective from the United States” was published in English and Korean in the Dong-A University Law Review, in Busan, South Korea.

In October Professor Wendel was a speaker at the 2005 Legal Ethics Conference at Hofstra University. This year’s conference was entitled “Lawyers’ Ethics in an Adversary System” and was in honor of the work of Monroe Freedman, one of the pioneers in this field. Professor Wendel presented a paper on the scope of permissible moral discretion in client selection, a subject on which Professor Freedman has participated in a long-running public debate. The paper, “Institutional and Individual Justification in Legal Ethics: The Problem of Client Selection,” will be published next year in the Hofstra Law Review.

Blanca Pardo, Raquel Serrabassa, and Bernardo Feliu with Professor Summers in his office
Faculty Profiles

When he became the Allan R. Tessler Dean of Cornell Law School in 2004, Stewart Schwab said that one of the most important tasks he faced was that of maintaining “a world-class faculty devoted to the twin missions of teaching and scholarship.” Since then, Dean Schwab and senior faculty have worked to enlarge the number of tenure-track faculty slots, to recruit young legal scholars, and to encourage incumbent faculty members in the informal collaborations that mark the Law School’s distinctive style.

Now, after an energetic period of hiring, the law school faculty has greater depth in law and economics, empirical legal studies, law and literature, and legal ethics, while continuing to offer exceptional clinical programs. The five Cornell Law School faculty members whose profiles appear below are part of that ongoing project.

John H. Blume

John Blume was in seminary planning a career as a theologian when he started an internship with an alternatives-to-incarceration project at New Haven Legal Assistance. The young men in the program changed his mind. The situations they found themselves in seemed to have more to do with misfortune than with evil—“there but for the grace of God go I,” he remembers thinking—and when he graduated from Yale Divinity School, he entered Yale Law School. After graduation and a clerkship with Judge Thomas A. Clark of the Eleventh Circuit, Professor Blume turned to work on death penalty cases: “It was an extension of the work I’d already done,” he says. While many of his law school colleagues jockeyed for status at top law firms, he was drawn to clients whose horrific childhoods were a prescription for disaster. As a young lawyer, Professor Blume worked with Millard Farmer, the death penalty lawyer whose work is documented in Sister Helen Prejean’s Dead Man Walking, and Armand Derfner, one of the most successful voting rights attorneys in the country.

Friends would call to say they lay in bed dreading another day in the world of corporate law, but he “loved getting up in the morning,” Professor Blume says. “I found it an honor and a privilege to do that work.” During the period when the federal government provided funding for Death Penalty Resource Centers, he served as director of the South Carolina office, and when the government decided that the centers were encouraging opposition to the death penalty and shut them down, Professor Blume, who had previously been a practitioner-in-residence at Cornell, moved to Ithaca.

Here, with Ted Eisenberg, Stephen Garvey and Sheri Lynn Johnson, he has conducted empirical research and published articles which challenge the conventional wisdom about the administration of capital punishment. The death penalty clinics he runs with Professor Johnson have given law students “the opportunity to be involved in cases where people live or die while they’re still in law school.”

“The whole Cornell community is fortunate to have Professor Blume here,” Professor Johnson says. “As a death penalty litigator, there aren’t more than two or three other people nationwide who have his stature, and none of them are currently engaged in scholarship in the way John is. His gifted leadership of the Death Penalty Project has given many law school students (and some undergraduates) a compelling vision of what an activist lawyer can do to change the world.”

Robert C. Hockett

Robert Hockett’s engagement with the legal underpinnings of the global economy began under a bridge in Kansas City, Missouri. While he was still considering entering law school, he met a group of homeless men who washed windshields and picked up odd jobs where they could. They were all enterprising and energetic, and Professor Hockett wondered why they didn’t have ‘real’ jobs. He gave them leads, offered them the use of his shower before interviews; when he realized that none of them had a bank account, he offered to keep their money for them in separate shoeboxes, each with a notebook in it to keep track of
deposits and withdrawals. But there was something about life under the bridge that kept them there, and his efforts to help them did not always work out the way he thought they would.

He thought learning the institutional underpinnings of successful enterprise at law school might help him understand why. After graduating with an award for academic achievement and an award for public service ("This year we have a rare double winner," the dean told the law school audience), and throughout a year clerking for Tenth Circuit Chief Judge Deanell Reece Tacha, Professor Hockett continued to visit the men under the bridge. He wondered whether it would be possible to shape institutions that would provide opportunities for these men, and how it might be done. Earlier, he had done three years of mathematical logic at Oxford; thinking like an economist was not a stretch. "How can financial institutions distribute opportunities more justly?" he asked. "And what constitutes a just distribution of opportunities?"

He worried that he was too much a "macro" thinker, he says, "more designing than doing," and he felt he ought not address questions about global financial institutions without seeing what it was like to work inside one. After two absorbing years as a consultant at the International Monetary Fund, he brought a number of ambitious projects to the J.S.D. program at Yale, where he worked with Michael Graetz, Henry Hansmann, and Jerry Mashaw, as well as with Robert J. Shiller (the coiner of the phrase "irrational exuberance") and John Roemer on the question of how to achieve practical justice by financial means.

Steven Shiffrin describes the significance of Professor Hockett’s appointment: "He contributes to the faculty expertise on globalization and distributive justice, bringing a wide-ranging background in international affairs, political theory and economic theory. He writes in a way that connects theory to practical solutions, and, in particular, solutions that have an impact on poverty."

Bernadette A. Meyler

In her third year of graduate school, Bernadette Meyler made an unexpected discovery. Her parents were both corporate lawyers, and she had assured them that she would never follow in their footsteps. She was not interested in law. Instead, she won a diploma in violin performance from Juilliard, did college-level math and four years of Greek and Latin in high school, then studied literature and classics at Harvard, graduating with a bouquet of honors and awards. As a Mellon Fellow in the Ph.D. program in English at the University of California Irvine, she studied with Shakespearean scholar Julia Reinhard Lupton, and critical theorists J. Hillis Miller and Jacques Derrida. One semester, Professor Meyler was appointed teaching assistant for a class that required the reading of a number of legal cases. She read them. She found them fascinating. She read more. She found herself…interested in law.

What did she say to her parents? "I considered not telling them," she admits.

She applied and was admitted to Stanford Law School while still at work on her dissertation (subtitled “Sovereignty and Judgment from Shakespeare to Kant”). It was completed in stolen moments between exams, summer stints at law firms, work on the Stanford Law Review, and a clerkship with Judge Robert A. Katzmann of the Second Circuit. She knew she was interested in teaching, and Judge Katzmann, an engaging mentor, had served on the Georgetown law faculty. "He had an open-door policy, he was there for us all the time."

She arrived at Cornell to a warm welcome. "Bernie Meyler brings broad ranging and much needed inter-disciplinary expertise to the faculty, both in law and literature, and in law and history," says Steven Shiffrin. "She is especially interested in comparative constitutional law and common law, and she has an article forthcoming which makes an important contribution to our thinking about the relationship between the concepts of racial equality and religious equality."

Last year, Professor Meyler taught Constitutional Law and a seminar in the History of the Common Law. Cornell students, she says, listen well, and question sharply: "They were incredibly creative, and I was able to understand the material much better through their reading." The course made her think about the way students are introduced to the law. "I wouldn't change anything about the first-year curriculum, but it would be nice if there were time to offer a class that looked at law globally. Many of my students said, 'If only I had taken this while I was taking torts and contracts…'"
What was the most serious error a clerk writing a memo for Supreme Court Justice Ruth Bader Ginsburg could commit? “To caricature the other side’s argument, or to use rhetoric to cheapen it,” says Trevor Morrison, whose clerkship with Justice Ginsburg concluded just before his arrival at Cornell in 2003. “We were to construct our memos and drafts using the very best argument we could make for the other side.” The year he spent in her chambers, he says, took the level of care and detail he had previously believed were adequate in his writing “to a whole new level.”

Another important lesson: “It’s easy to have an exaggerated sense of your own importance as a clerk,” he says, “but that’s a mistake, too. The justices disagree deeply with each other, but they are committed to the health of the institution, and they work with each other across chambers. Clerks have to learn how to do that as well.”

Planning to study the history of Japanese law, Professor Morrison began a J.D./Ph.D. program at Columbia. There he encountered the constitutional scholar Michael Dorf, who fired Professor Morrison’s interest in constitutional law. Professor Dorf recommended him for a clerkship with Ninth Circuit Judge Betty Fletcher. From there, Professor Morrison served a year as a Bristow Fellow in the Office of the Solicitor General, working under Seth P. Waxman, “the dominant force in the Supreme Court bar,” in an office whose deputy and line attorney positions were among the most coveted law jobs in Washington, D.C.

Professor Morrison accepted a post in the Office of Legal Counsel the following year. This office offers legal advice to the Attorney General, the White House, and various regulatory agencies, and Professor Morrison describes his year there as one of fielding requests in which “either the requesting party said, ‘Look into this question, you can take as long as you need,’ or else said, ‘This is happening today, and we need you to call back in an hour.’” It was in the middle of this year that the Clinton administration ceded its offices to Bush appointees; Seth Waxman went to Wilmer Cutler (now WilmerHale), and Professor Morrison followed him, spending a year there before the clerkship with Justice Ginsburg. “The best thing about all those jobs was the teamwork,” says Professor Morrison. “I learned a lot from talking through problems with colleagues. And collaboration among the faculty here is the academic equivalent of that—it’s the quality I prized most in my earlier positions.”

His colleagues are similarly enthusiastic: “Trevor is a wonderful new colleague, because he is so engaged and expressive,” says Kevin Clermont. “But what’s most amazing in such a young person is how much he knows. Having lunch with him is like having lunch with Google.”

“I see myself as bridging the gap between legal practice and legal theory,” Brad Wendel says, “and I try to make those worlds intelligible to each other.” In practical terms, he adds, this means that when he goes to professional law conferences, participants describe him as “that theory guy,” while, when he goes to legal theory conferences, they say, “You know—the lawyer guy.”

As a specialist in legal ethics, he draws back from the thought that he can fill the places of two founding scholars in the field, Cornell faculty emeriti Roger Cramton and Charles Wolfram—“they’re too big.” He describes legal ethics instead as a field of increasing granularity, in which scholars are staking out new territory in particular subfields. A productive writer during the five years at Washington and Lee Law School that preceded his appointment at Cornell, Professor Wendel published work on the political and moral philosophy of lawyering, and on institutional and informal control of the legal profession. About Professor Wendel, Roger Cramton says, “I first encountered Brad at several academic meetings at which he gave interesting and exciting talks and remarks. Over the past decade he has been the most productive and influential scholar of the younger generation in the legal ethics field. His visit at Cornell also established that he was an excellent teacher and a wonderful colleague. We are very fortunate to have him with us.”

It was as an undergraduate that Professor Wendel first became interested in ethics; he studied philosophy at Rice University, where the philosophy department was right across from Baylor Medical Center, and the department ran a nationally famous bioethics program. At Columbia, where he completed work on his J.S.D., he thought about a career as a litigator. A clerkship with Ninth Circuit Judge Andrew J. Kleinfeld in Fairbanks, Alaska, and two years at Bogle and Gates in Seattle as a product liability specialist didn’t dampen his enthusiasm. In the end, though, teaching drew him, and litigation proved useful for the classroom. “You tend to come at legal issues from both
directions, and the mentality is good for teaching,” Professor Wendel says. “It’s also good for thinking strategically about how to shape a case’s substance and procedure. Of course, the students don’t see it that way—they see Civil Procedure and Torts as two unrelated fields. But the litigator knows that isn’t so.”

—Antonia Saxon

**Alumni Profiles**

**Tanya M. Douglas ’92**

Since graduating from Cornell Law School in 1992, Tanya M. Douglas has devoted her entire career to public interest law. Currently, she is the director of the Disability Law Project for Legal Services for New York City in Manhattan. “It is very challenging work,” she said, “but it is also very rewarding for me. It is good to be able to put my legal skills to good use for those who do not have access to legal counsel.”

Ms. Douglas said that she always knew that she wanted to do public interest work, and her frontline experience includes assisting clients with bread-and-butter issues such as housing, healthcare, disability, and access to education. “I always loved the work that I’ve done for children with special education needs,” she said. “Middle-income families usually know where to go for help and how to navigate the system, but low-income people are not aware of the services available. As a result, poor children who require special education placement often languish because the parents do not know where to turn. The parents often become very frustrated with the school system and eventually take their children out of school. We explain to them that there is a mandate that requires equal access for all children who need these special services, and we help place their children in the appropriate program.”

A native New Yorker, Ms. Douglas attended a parochial school, where about ninety-five percent of the graduates went on to college. “I learned a little bit about Cornell from some of my friends who graduated ahead of me, and I knew that I wanted to enroll there,” she said. “Cornell had so many diverse offerings, which gave me a lot of options. Besides, it was far away from home, but not too far.” While an undergraduate, Ms. Douglas was active in several student organizations, and received both a Mellon-Ford scholarship/internship and a Cornell Tradition Fellowship. After receiving her B.A. in government and African studies, Ms. Douglas enrolled in Cornell’s Law School, where she continued to take part in many student activities, and developed a mentoring program with alumni for students of color. Her favorite law school professor was Winnie Taylor, for whom she worked as a research assistant. “She provided great leadership and was wonderful role model,” said Ms. Douglas. “I did research for her in the areas of commercial law and public health. The work that I did helped me develop my legal research skills, which are so important for being a competent lawyer.”

Ms. Douglas supervises a staff of attorneys and paralegals that represents low-income New Yorkers in their claims for Social Security Disability and Supplemental Income benefits. She said that many of their clients have a number of chronic conditions or disabilities, and no health insurance or money for medical care. “We represent our clients at hearings and continue to assist them with appeals that follow,” she said. Ms. Douglas said that there has been a large increase in the number of people who are suffering from post-traumatic stress syndrome related to the September 11 terrorist attacks. “Many of our clients either worked in service jobs near the World Trade Center, or had friends or family members who were victims of the attack,” she said. “Unfortunately, many of these clients must overcome cultural barriers to accepting mental health services; and we have to convince them that it is not a stigma to seek treatment. One of the ways we approach this problem is through community development work. Some of our clients are referred to us by caseworkers whom they trust. We work with groups that live in low-income areas, where we train people to know what to do and where to go for help.”

Some of the senior staff members whom Ms. Douglas supervises have twenty-five to thirty years of experience. “I have wonderful colleagues,” she said, “and I respect all the hard work that they do. It takes a particular type of personality to do public service legal work. You are drawn into it.” To help reduce the potential for burnout, she encourages people to take vacations, offers training modules, and assigns them cases in different areas. Ms. Douglas is an experienced trainer for the Management Information Exchange (MIE), where she has developed and conducted many seminars to train lawyers in advanced legal supervisory skills.

Ms. Douglas also supervises her department’s summer internship program. She has observed that today’s law students are looking for a well-rounded experience. “When I graduated from law school, I wanted to be specialist, but today’s law students are being encouraged to be general practitioners,” she said. “Al-
though we assign our interns to one legal project, we also give them an opportunity to work on assignments in other areas. We have a weekly Friday luncheon to discuss everyone’s work and share information.”

In contrast to her longtime staff, Ms. Douglas said that newly hired associates usually stay for about five to seven years, then move on to other jobs. “The number one reason that they leave is financial,” she said. “They still are paying back large student loans and some also have young families. Our salaries are not high enough for them to keep pace or get ahead.” Ms. Douglas believes that loan-forgiveness programs for attorneys who do public interest work should be broadened. She said: “I would love to see a program that would forgive all student loans for those who agree to work in this field for at least ten years. We need to be able to hire and retain more lawyers, because the need exceeds our resources and impedes our ability to take on more cases. The number of poor people has increased, especially after the September 11 attacks.”

Ms. Douglas said that another way to ease the heavy caseload is to establish partnerships with law firms who are willing to do some pro bono work. “When lawyers in private practice take the opportunity assist pro bono, they make a significant difference,” she said. “I would encourage my colleagues in private law firms to consider doing some pro bono work for us. We face many challenges every day, but when you succeed in helping a client in desperate need, it is a tremendously rewarding experience.”

Joyce P. Haag ‘75

Many people acknowledge that being in the right place at the right time has shaped their career path, and Joyce P. Haag ’75 would be inclined to agree. “When I started my legal career as an associate with a law firm in Rochester, New York, one of my assignments was doing ERISA work with some of our clients,” she said. “ERISA, the acronym for the Employee Retirement Income Security Act of 1974, was brand-new legislation at that time, and Eastman Kodak was looking for a lawyer with some experience in this area.” Thus, in 1981, Ms. Haag left private practice and began her successful career at Kodak, where she was hired as a staff attorney on the legal department. In July 2005, she was promoted to general counsel and senior vice president of the company. Prior to her current appointment, Ms. Haag held several positions of increasing responsibility at Kodak. She was elected assistant secretary in 1991, and became corporate secretary in 1995. In 2001, she was appointed to the additional position of assistant general counsel. In March 2004, she became general counsel for the Europe, Africa, and Middle Eastern Region.

Although Ms. Haag moved steadily through the ranks at Kodak, the outset of her legal career was not entirely smooth sailing. After she graduated from law school, Ms. Haag had trouble finding a job. “The profession was not too amenable to women back in the seventies,” she said. A native of Rochester, Ms. Haag was determined to find a position there. In January 1976, she joined a newly minted law firm, now known as Boylan, Brown, Code, Fowler Vigdor and Wilson, which then had ten partners and a couple of associates. “I was the first outside associate that they hired,” she said, “and I moved through various departments, which gave me the opportunity to practice in a number of different areas, including tax and corporate work.” After working with the firm for five years, Ms. Haag knew it was time to make a change. “As I recall my thought process, I realized that if I didn’t do something different now, I would spend my whole life working in private practice at this firm, which was not a bad thing, but seemed too confining,” she said. “I had always been interested in business. My father had his own business; and growing up, I had been involved and familiar with the business world. Becoming a corporate lawyer offered the best of both worlds.”

When Ms. Haag received her B.A. degree in mathematics and graduated Phi Beta Kappa from Mount Holyoke College, she seriously considered acquiring a joint degree in business and law. “That was one of the reasons that I applied to Cornell,” she said. After she was accepted at Cornell, Ms. Haag intended to register in the joint degree program, which required that she take her first year in the business school. Instead, she opted to do her first year in the Law School. “At that point in time law school held more intrigue for me. I still remember how grueling the first year of law school was and after completing my first year, I was anxious to join the working world. Completing the business school portion would have added an additional year to my studies.”

Ms. Haag found her Law School professors inspiring: “I received an excellent education because our professors had great teaching skills and kept pace with the times, updating their materials and keeping current with what was relevant. They were very approachable, which enabled all of us to enjoy a very
had a profound effect on Kodak, which has seen a significant decrease in employment, and a renewed emphasis on cost control. The transition from film to digital technologies. The company has always been a technology leader, but its area of focus is shifting as consumers demand changes. The company has always been a technology leader, but its area of focus is shifting as consumers demand changes. The transition from film to digital has had a profound effect on Kodak, which has seen a significant decrease in employment, and a renewed emphasis on cost control. This historic transformation has provided many challenges for Kodak’s legal department as it continues to provide cost-effective legal advice. Ms. Haag said that one positive aspect of handling more legal work in-house is that it provides a wide variety of experiences for the company’s lawyers. “When I came out of law school, we were encouraged to develop a specialty, or niche; but I think today that employers are looking for just the opposite,” she noted. “I would advise today’s young lawyers to have as broad an experience as possible. Being well-rounded enables one to take a broader view. Even after nearly twenty-five years with the company, I still have some development opportunities in the areas of intellectual property and patents, and I am still excited about learning new things.”

One of her favorite teachers was Robert Summers, who taught contracts. “He was very knowledgeable, and he expected us to be thoroughly prepared for class,” she said. “We were all so young and somewhat intimidated by him at first, but we soon realized that he really cared about us and wanted us to succeed.” Another favorite was the late Irving Younger. “He was incredibly interesting and shared so many of his experiences from the courtroom, which made the law come alive,” Ms. Haag said. “Faust Rossi was another very engaging professor.”

Ms. Haag is currently a member of Cornell’s President Council of Women (PCCW) and the Association of Corporate Counsel. Before accepting a one-year assignment working overseas for Kodak, Ms. Haag held leadership positions in several community organizations, and she is currently reviewing some new volunteer opportunities. “I found it interesting how quickly you become disconnected from the community when you move away for awhile,” she said. “Right now, I feel like there is something missing from my life. Being involved with the community takes a lot of time, but I miss being involved as a volunteer. I sincerely believe that helping the community is the right thing to do, and the external focus also helps you to maintain a broader perspective in your work.”

In Spring 2005, the Rochester Business Journal honored Ms. Haag with one of their “Influential Women” awards. She will have the opportunity to apply all her knowledge, skills, and experience as she helps direct Eastman Kodak through its transformation from film to digital technologies. The company has always been a technology leader, but its area of focus is shifting as consumers demand changes. The transition from film to digital has had a profound effect on Kodak, which has seen a significant decrease in employment, and a renewed emphasis on cost control. This historic transformation has provided many challenges for Kodak’s legal department as it continues to provide cost-effective legal advice. Ms. Haag said that one positive aspect of handling more legal work in-house is that it provides a wide variety of experiences for the company’s lawyers. “When I came out of law school, we were encouraged to develop a specialty, or niche; but I think today that employers are looking for just the opposite,” she noted. “I would advise today’s young lawyers to have as broad an experience as possible. Being well-rounded enables one to take a broader view. Even after nearly twenty-five years with the company, I still have some development opportunities in the areas of intellectual property and patents, and I am still excited about learning new things.”

-Cynthia Tkachuck

Student Profiles

Priscilla J. Forsyth ’06

Priscilla J. Forsyth ’06 found that growing from the child of New York City liberals into a woman heading for a career in corporate law has been a learning experience. But then, she explains, “education is a strong theme in my life.”

Her education began at the prestigious Hunter College High School, studying and spending her free time with a diverse group of multicultural New York City kids. Her own father is from the island of Grenada, while her mother is from Cleveland; they settled in an old brownstone on St. Mark’s Place in the East Village. “People are usually shocked that anyone grew up on my block,” Ms. Forsyth notes. After reading Inherit the Wind and To Kill a Mockingbird in the fifth grade, she says, “I remember thinking that being a trial lawyer was just the coolest job ever.” But her liberal parents responded with a lot of lawyer jokes, and she eventually put the idea aside.

At Syracuse University, Ms. Forsyth majored in political philosophy because it allowed her to build her own program, taking classes in race and society, philosophy and existentialism, and African politics. While uncertain about the kind of career she wished to pursue after graduation, Ms. Forsyth says, “I knew I wanted to continue exploring issues of race and class, and to have an immediate impact on underresourced communities. Teach for America provided the perfect opportunity to do so.”

Teach for America is a national corps of recent college graduates who commit to teaching in an underserved school for a minimum of two years. After a rigorous five-week training program in lesson planning, classroom management, and leadership, Ms. Forsyth was posted to a small elementary school in Compton, California, where she taught second grade. “I absolutely loved it,” she says.

She spent five years working in Compton, moving from classroom teaching to administration and teacher training. As she took on administrative and leadership roles, she says, “I realized how many other issues impact a child’s readiness to learn—not just those within the school district itself, but physical and mental health issues, home life, the parents’ work environment, and other consequences of poverty. So I decided that I wanted to
explore ways of impacting education through other means.”

After considering many options, Ms. Forsyth chose law school. “I saw a need for more power, and therefore more education,” she says. “A law degree is both versatile and empowering; the skills learned in law school can be applied to effect systemic social change in a variety of ways.” And after attending a Minorities and the Law conference at Cornell Law School, she knew it was the place for her. “I love the small size of the Law School, and the isolation of Ithaca,” she explains. “I wanted to immerse myself in the whole law school experience. The student-faculty ratio is great. And I’d heard so many wonderful things about Professor Johnson.” (Professor Sheri Lynn Johnson is an expert on the interface of race and criminal procedure issues, and the assistant director of the Cornell Death Penalty Project.)

Ms. Forsyth adds, “Although there is always room for improvement, I believe that Cornell does a really good job of recruiting a very diverse student body, not just in terms of race, but in terms of education and work experience. I find that really impressive.”

During her time at Cornell, Ms. Forsyth has served as president of the Black Law Students Association, and serves as editor-in-chief of the Journal of Law and Public Policy. She is presently mentoring a student from the Undergraduate Minority Law Society: “I’ve been working with her on her law school applications,” Ms. Forsyth says, “giving her a lot of information I didn’t know when I applied.”

Although an experienced teacher herself, Ms. Forsyth found law school pedagogy challenging and foreign at first. She soon adapted; as a lawyer, “you eventually have to teach yourself.” But she is enthusiastic about her professors. “Joel Atlas, my Lawyering professor, helped me feel more confident about my writing,” she says. “Professor Johnson, aside from being an excellent teacher in the classroom, always makes herself available, and has her students’ best interests in mind. Professor Holden-Smith’s classes are the perfect mix of intimidation, intrigue, and humor. Professor Rossi’s Civil Procedure lectures were fabulously entertaining and comprehensive, and it was one of the most challenging subjects first year, but I really enjoyed it!”

It’s clear that Ms. Forsyth is a fearless and passionate student, and as such, willing to change her preconceptions. “I was surprised that I enjoyed studying corporations and contracts more than constitutional law,” she explains. “In constitutional law, you realize how subjective and malleable the law has to be, and how difficult it is to make the kind of change I was thinking of. Business law has a really human element to it, and it’s a lot more objective—in a beautiful way!”

For relaxation, Ms. Forsyth likes singing and cooking. “I performed in the Law School’s Cabaret for two years, and in high school I participated in musicals, was in the Jazz Chorus and an a cappella group called Revelation,” she says. As for cooking, “My late grandmother, who lived in South Carolina, made fabulous soul food,” recalls Ms. Forsyth. “She didn’t use recipes, but I managed to write down how she did things, and I still make many of her best dishes. But I’ll cook anything and everything.”

Ms. Forsyth spent the summer of 2005 as a summer associate at Cravath, Swaine and Moore. She will return to Cravath next fall as an associate in the corporate practice. Her family is reconciled to her becoming a corporate lawyer. After all, she says, “Lawyering is a service job. I’m good at anticipating people’s needs, reading people, putting the other person’s interest first, and being loyal.”

“It’s ironic,” Ms. Forsyth continues. “Life is an exciting, unpredictable path. I like to push and challenge myself and have specific goals, but there are a lot of things that interest and appeal to me. I don’t know if I’ll always practice law, but I will always be learning.”

-Judith Pratt

David J. Miller ’06

The Law Forum caught up with David Miller ’06 by phone in Paris, where he is completing the Law School’s joint degree program in Global Business Law. Mr. Miller’s interest in international law started at home; his mother is French and works as an attorney at the United Nations, while his father, an Australian, works as a consultant in international law matters.

Mr. Miller grew up speaking both English and French, and attended the United Nations International School, where he received an International Baccalaureate Bilingual Diploma. The IB Program allows students to fulfill the requirements of their national or state education systems while still attaining a globally recognized degree. “The diploma is used as the basis for admission in universities throughout the world,” Mr. Miller explains.

Mr. Miller then considered attending medical school in Australia, but decided to stay closer to his family—he has a younger brother—and go to an American college. At Trinity College in Hartford, he majored in economics and biochemistry. “I was pre-med all through college, and was in charge of the Trinity College Emergency Response Team,” Mr. Miller says. “That was the highlight of my college experience,” he continues. “I enjoyed
helping people and seeing the things I did making a difference." In his fourth year, however, Mr. Miller decided not to be a doctor after all. "I enjoyed the clinical aspects of being a medic, but I found that I enjoyed economics and writing far more than my biochemistry courses," he explains.

By the time Mr. Miller made this decision, "the recruiting season was almost over," he says. "Otherwise I probably would have gone into banking like all my friends." Instead, he found a job as a corporate legal assistant at Cravath, Swaine and Moore. "It was completely random, but I ended up loving it and applying to law school," he notes.

When he began working at Cravath, he wasn't sure what to expect, but by the time he left to attend Cornell, he was thrilled about his experience: "It was a fantastic environment for me, and really gave me a good idea of what being a corporate lawyer would be like."

Mr. Miller chose Cornell because of its strength in international law, and first planned to undertake Cornell's joint J.D./LL.M program. Then Robert Summers offered him a research position for the summer of 2004. "Studying and working with Professor Summers has been the highlight of my time at Cornell, perhaps even my entire academic career," says Mr. Miller. "His first year contracts course was my favorite course in law school." However, spending the summer working on Professor Summers’s recently released book, Form and Function in a Legal System, meant that Mr. Miller could not fulfill the LL.M requirement to attend Cornell's summer institute in Paris. So he applied for the three-year J.D./Master in Global Business Law and received one of the two open spots in the program.

The Master is a French graduate degree focusing on a special subject within an academic field. Cornell Law School students in the J.D./Master program spend their third year in Paris, studying international and comparative law at the Institut d’études politiques de Paris, commonly known as “Sciences Po.” Needless to say, his fluency in French was a prerequisite for the program.

"Except for talking with my mother at home and over the phone, I hadn’t spoken French for about eight years," Mr. Miller admits, "so it was a bit of a shock. Speaking French every day took a little while to get used to.” However, he had continued to read books and articles in French during those years, so his fluency hadn’t diminished to the point where it held him back. Additionally, several of the classes are bilingual and, says Mr. Miller, "I write mostly in English because I'm not familiar enough with legal vocabulary in French.”

He is studying various aspects of international and global law, along with classes in comparative law. “The professors here are amazing,” he says. “Our antitrust law professor is Guy Canivet, the premier président de la Cour de cassation—the equivalent of the chief justice of the Supreme Court.” On the other hand, Mr. Miller says, the teaching style is lecture-based, rather than Socratic, and the latter was one of the things he liked most about his Cornell classes.

Before leaving for Paris, Mr. Miller worked as a summer associate for Latham and Watkins in their corporate and finance departments, and he's looking forward to joining the firm as an associate in the fall of 2006. “I really enjoyed working there, especially because a lot of the work was international,” he notes. The knowledge of international regulatory systems he is gaining at Sciences Po will likely come in handy when he returns to Latham.

Mr. Miller doubts he’ll have time for resuming EMS work when he joins Latham, but hopes to continue some of his other interests. For the past two years, he won Cornell University’s bench press competition. He also loves scuba diving. “I worked in the Caribbean as a divemaster,” he says, “and have gone wreck diving in Pennsylvania where a helicopter and a train had been sunk just for that purpose.” But he admits that he hasn’t been brave enough to dive in cold, murky Cayuga Lake.

His other two passions are wine and cigars, which he has occasionally been able to find time to indulge this semester. “[W]hen the Beaujolais Nouveau 2005 came out, we had to go café hopping and drink a few glasses,” he notes. Drinking the first Beaujolais of the year is an international ritual—one that is celebrated in Ithaca as well as Paris—and so, after all, he hasn’t traveled all that far from home.

"~Judith Pratt

David J. Miller ’06 at the Institut d'études politiques de Paris ("Sciences Po"), where he studied this year.
Alumni Activities

On the Road Across New York
Cornell Law alumni in Rochester and Buffalo welcomed Stewart J. Schwab, the Allan R. Tessler Dean, in early October. In each city, Dean Schwab was the featured luncheon speaker, presenting salient facts on the state of the Law School, and answering the questions of local alumni. In Rochester, Duncan W. O’Dwyer ’63 served as host and master of ceremonies at the Genesee Valley Club, while in Buffalo, Bernadette J. Clor ’99 served as master of ceremonies. The Buffalo event was hosted at the Fort Orange Club by John L. Kirschner ’53.

Also in October, through the leadership of Glenn P. Doherty ’89 and Christopher Massaroni ’82, the Albany alumni welcomed Hon. Anthony T. Kane ’69 of the State of New York Supreme Court, Appellate Division, Third Judicial Department, for a revival of the annual Albany luncheon. Judge Kane offered observations on the court to the Albany alumni, and provided an interesting insider’s look for the assembled group.

Annual Curia Society Dinner
The end of October marked the seventy-fifth annual Curia Society dinner in New York. Jack G. Clarke ’52 was the distinguished guest speaker for the 2005 edition of this fall highlight. Nearly one hundred alumni and friends gathered at the Harmonie Club to hear Mr. Clarke offer observations on the oil and gas industry based on his distinguished career and expertise. Harris D. Leinwand ’68 served as the master of ceremonies.

As always, the event was successful because of the strong support of its volunteer committee, which was co-chaired by Hon. Stephen G. Crane ’63 and Jonathan L. Hochman ’88, and which included Hon. Ariel E. Belen ’81, Burton Citak ’52, Daniel A. Cohen ’58, Jerold W. Dorfman ’63, Gerald F. Fisher ’69, Jennifer I. Foss ’01, Neil V. Getnick ’78, Yvette G. Harmon ’69, Hon. Debra A. James ’78, Helaine J. Knickerbocker ’51, Harris D. Leinwand ’68, Sally Anne Levine ’73, Martin A. Stoll ’63, Milton G. Strom ’67, Jay W. Waks ’71, and the Hon. Louis B. York ’63.

Boston
A cold night with snow in the forecast was no deterrent for hearty Boston alumni who turned out in early December to hear former Dean and Professor Emeritus Roger C. Cramton speak on “Reforming the Supreme Court.” The reception for Professor Cramton and the local alumni was held at the offices of Goodwin Procter, with the special help and assistance of Raymond C. Zemlin ’80. The evening proved to be a bit of an impromptu reunion of the Class of ’80, which was strongly represented.

Washington, D.C.
Early January marked the annual meeting in Washington, D.C., of the American Association of Law Schools, and a large group of alumni as well as many members of the faculty and staff gathered to reconnect and make new friends. Dean Schwab offered brief comments and introduced Theodore Eisenberg, the Henry Allen Mark Professor of Law, who spoke about the importance of empirical legal studies to most, if not all, areas of practice, proving his point by challenging the audience to present him...
with a practice area that could not be enhanced with empirical study. Charles N. Schilke ’88, a member of the Alumni Association Executive Committee, and the current chair of the local regional committee, offered brief words of appreciation.

Interested in assisting with the organization of Cornell Law School alumni events and activities in your community? Contact Peter Cronin, associate dean for alumni affairs and development, at pc253@cornell.edu, or (607) 255-3370.

Cornell Law School Graduate Receives Ford Foundation Award

A Bay Area lawyer well known for his work in advancing the rights of transgendered people received a $100,000 Ford Foundation award on October 6. This is a national honor given yearly to community leaders “working against great odds to make a difference.” Shannon Minter ’93, legal director of the National Center for Lesbian Rights (NCLR) in San Francisco and one of the lead attorneys in the controversial gay marriage litigation, is one of seventeen people in the United States who will receive the Leadership for a Changing World award. The program is administered through the Advocacy Institute, a Washington, D.C., social justice training group. (An account of Mr. Mintner’s recent talk at the Law School appears on page 18.)

“It’s a wonderful, great honor,” said Mr. Minter, a transgendered man credited with laying the legal groundwork for many state and local laws that prohibit discrimination against transgendered men and women in health care and employment. “It would be very nice if it we got to a point where it was no particular interest to anyone whether you’re transgender or gay,” said Mr. Minter. “But unfortunately we’re not there yet. There’s tremendous struggle for social and legal acceptance. It’s a private fact that right now has tremendous public consequences.”

The country’s leading scholars and legal experts on gay, lesbian, and transgender issues credit the soft-spoken Mr. Minter for his tireless groundbreaking work. “If you look at Shannon's history of being open about being a transsexual, and imagining the barriers that one faces with that, he's been a person who’s been able to bridge multiple communities,” said Laura Chambers, vice president of the Advocacy Institute. “He’s been fearless about it.”

Mr. Minter, who speaks with a subtle Texas drawl, has “an uncanny ability” to engage people, his close friends and colleagues say. Helen Carroll, coordinator of an NCLR project on homophobia in sports, said Mr. Minter “brought transgender into the conversation in a thoughtful and very understanding way.”

Michael E. Toner ’92 Elected Chair of FEC

In December of each year, members of the Federal Election Commission (FEC) elect a chair and vice chair to serve for the upcoming calendar year. This year the commissioners elected Michael E. Toner ’92 (Republican) as chair, and Danny L. McDonald (Democrat) as vice chair for 2006. The Federal Election Campaign Act requires that the holders of both positions be of different political parties, and states that a member may serve as chair only once during a six-year term of office.

Mr. Toner was nominated to the Federal Election Commission by President George W. Bush on March 4, 2002, and appointed on March 29, 2002. He was confirmed by the United States Senate on March 18, 2003.

Prior to being appointed to the FEC, Mr. Toner served as chief counsel of the Republican National Committee (RNC). He joined the RNC in 2001 after serving as general counsel of the Bush-Cheney transition team in Washington, D.C., and general counsel of the Bush-Cheney 2000 presidential campaign in Austin, Texas. Before joining the Bush campaign in Austin, Mr. Toner was deputy counsel at the RNC from 1997-1999. Prior to his tenure at the RNC, he served as counsel to the Dole/Kemp presidential campaign in 1996.

Mr. Toner received a J.D. cum laude from Cornell Law School in 1992, an M.A. in political science from Johns Hopkins University in 1989, and a B.A. with distinction from the University of Virginia in 1986.

Created in 1975, the Federal Election Commission is an independent federal agency established to enforce limitations
and prohibitions on contributions to federal candidates and committees, to require them to disclose their financial activities, and to administer the public financing program for Presidential elections.

**Class Notes**

58 In April of 2005, Bruce O. Becker joined the law firm of Hinman, Howard & Kattell, LLP. He can be reached at 700 Security Mutual Building, 80 Exchange Street, P.O. Box 5250, Binghamton, New York 13902-5250, (607) 231-6829, or bbecker@hhk.com. Stanley Komaroff and some friends from Cornell Law School gathered for dinner with their wives in Port Chester, New York, on a November evening in 2005. Some of the group had not seen each other since graduation in 1958, and a good time was had by all. Plans are in the works to repeat the occasion.

60 Herbert B. Ray and his wife, Sharyn, traveled in July 2005 to Swaziland, a tiny southern African nation, as volunteers with Dream for Africa, a faith-based humanitarian organization in Oklahoma. Swaziland has limited supplies of usable water, and its soil has become exhausted from overgrazing and erosion. The Rays led a team of six, planting over 5,000 small family gardens with special plants designed to thrive in the nation’s soil. This was the first visit to Africa for the Rays, who live in Broome County, New York. Their careers, he as a Family Court Judge and she as a nurse, together with raising five children, left them little time to volunteer or travel. After the trip, Mr. Ray reported, “We have been so blessed that we sought a mission where we could give something back. We had hoped that those persons with whom we had contact in Africa would be made richer by our efforts, but my wife and I found that it was each of us that received the richer reward by our contact with these wonderful African people.”

63 Charles J. Hecht served as sculptor-in-residence in Beijing last spring through an exchange program sponsored by the Beijing Art and Pickled Arts Centre there. (A full account of Mr. Hecht’s visit appears online at http://charleshechtart.com/chinese_flags.htm). Mr. Hecht has also exhibited his sculptures at galleries in New York, Berlin, and Valencia, Spain.

Sarel Kromer journeyed to Rwanda in August 2005 with her husband, Philip, to witness the Gacaca hearings—local tribunals established in communities throughout Rwanda in order to adjudicate claims arising out of the genocide. At the end of the trip, she wrote: “How the Rwandans are learning to live together as a community, absorbing the genocidaires back into their lives and communities, is a lesson in humility for us all. We did not find despair in this country. We found hope, love, openness, and a desire to put things behind them and go forward. We felt safe walking the streets. We felt dignity and warmth in the air. While they may not have material goods, they are making a life with what they have, and trying hard to educate the coming generation and climb out of illiteracy.”

66 Jerry G. Berka was honored at the annual Nassau-Suffolk School Board Association meeting with the “Distinguished Board of Education Service Award” for his thirty-six years of dedication to the Bay Shore School District. The review committee was impressed with Mr. Berka’s longevity as a devoted board member, and the plethora of ways in which he has served the students, staff, and the Bay Shore-Brightwaters community.

68 Peter Coppelman has returned to his civil rights roots as general counsel of the National Abortion Federation (NAF), a non-profit organization that represents 400 abortion clinics in the United States and Canada. Collectively, NAF’s clinics provided about half of all abortions in the U.S. last year. He writes: “I will not be joining those of my classmates heading off into the sunset of retirement any time soon, since I have a son who is a senior in college (headed to grad school), and a daughter entering her freshman year in college (on her way to becoming an equine surgeon). I suppose you could sum up my non-traditional, public interest legal career by saying there is nothing I like better than a good fight!” Prior to joining NAF, Mr. Coppelman spent twenty-five years as an environmental attorney.

Robert W. Kessler, a partner in the Rochester, N.Y., firm of Woods Oviatt Gilman LLP, received the 2005 Joe U. Posner Founder’s Award from the Rochester Area Community Foundation in recognition of his leadership and service to the Foundation. Mr. Kessler, the former chair of the Rochester
Area Community Foundation’s Board of Directors, is a member of the Planned Giving Council at the University of Rochester Medical School, a member of the board of the Otetiana Council of the Boy Scouts of America, and a member of the Wilmot Cancer Center Board. He was elected a Fellow of the American College of Trusts and Estates Counsel, is the former chair of the Trusts and Estates Section of the Monroe County Bar Association, and was included in the latest edition of The Best Lawyers in America for his practice in the area of trusts and estates.

Michael Botein was a university professor at Southern Illinois University during the fall of 2005, while on leave from New York Law School. He also gave papers at the Council of Europe, Strasbourg, France; the University of Urbino, Italy; and the University of Wroclaw, Poland, during that time.

Yvette G. Harmon was elected to the Executive Committee of McGuire Woods. She taught a seminar at Cornell Law School in spring 2006 along with fellow alumnus Anthony M. Radice. Together, Ms. Harmon and Mr. Radice also co-chair the Law School Annual Fund.

In July 2005, the State Bar of California Board of Legal Specialization approved the application of John R. McDougall to extend certification as a Criminal Law Specialist for an additional five-year term. The board first recognized Mr. McDougall as a specialist in criminal law in 1995. Initially gaining this recognition requires successfully completing a written examination in addition to satisfying experience and continuing education requirements. Maintaining it requires further trial experience and continuing education. According to the website of the California State Bar, 342 of the state’s licensed attorneys are criminal law specialists.

Fulton Financial Corp. has hired John R. Kubinec of Lititz, Pennsylvania, as Fiduciary Audit Manager. Mr. Kubinec, who earned his bachelor’s degree at Ithaca College, previously was vice president and manager of the risk and compliance departments at Valley Forge Asset Management Corporation.

In August 2005, New York Governor George Pataki announced the designation of State Supreme Court Judge Robert J. Lunn of Monroe County to the Appellate Division, Second Department. Judge Lunn has served as a Supreme Court judge in the Seventh Judicial District since 1995. As an IAS (Individual Assignment System) justice, he has actively utilized computers and state-of-the-art programs to facilitate case management and tracking. Prior to assuming the bench, he was engaged in the private practice of law, served as a Penfield Town Judge, and served as a Monroe County Assistant District Attorney in 1976 and 1977. He received his bachelor’s degree in history from the University of Rochester in 1969. Judge Lunn is a member of the New York State Bar Association, New York Pattern Jury Instructions Committee, and a contributing editor and writer for the New York State Bench Book publication. He served on the Task Force Committee of the State Association of Justices of Supreme Court to study the proposed restructure and consolidation of trial courts. He lectures on trial matters for the NYSBA and local bar associations. Judge Lunn is married with four children, and lives in Penfield, New York. His wife, Paula, is a teacher with the Rochester City Schools.

Hon. Leonie M. Brinkema, U.S. District Court Judge for the Eastern District of Virginia, is hearing the case of U.S. v. Zacarias Moussaoui. Moussaoui, a French citizen, is the only person to be charged in the United States in the September 11, 2001, attacks on the World Trade Center and the Pentagon. The pre-trial period was complicated by the defendant’s demands to represent himself; the trial, reports the Washington Post, is taking place under extremely tight security.

Jay A. Epstein is the co-chair of the Global Real Estate Practice at DLA Piper Rudnick Gray Cary, the third-largest law firm in the world. Based in Washington, D.C., he leads the U.S. real estate group of more than 200 lawyers, a group consistently recognized as the top real estate practice in the U.S. In addition to serving on the Board of Governors of the American College of Real Estate Lawyers (ACREL), Mr. Epstein was selected as the Top Real Estate Lawyer in Washington, D.C., by both the Washington Business Journal and Chambers and Partners, a respected English research firm. The 2004 edition of the Chambers Guide named Mr. Epstein as one of only two “star” real estate lawyers in the United States. Mr. Epstein is also listed in The Best Lawyers in America, An International Who’s Who of Real Estate Lawyers, and PLC’s Global Counsel Handbook of Corporate Real Estate. He is a frequent lecturer on real estate leasing and other matters at ACREL, ALI/ABA, the International Council of Shopping Centers and other conferences. He resides in Chevy Chase, Maryland, with his wife, Nancy, who is the senior vice-president of It’s Just Lunch—the dating service for busy professionals.

Kendall A. Minter has been appointed general counsel of Fo Yo Soul Entertainment, the record and entertainment company of Grammy award-winner Kirk Franklin. Mr. Minter is also president of P-19 Media LLC, a new faith-based media and advertising agency that is a joint venture with the Loomis Agency in Dallas.
Joshua I. Schwartz is an expert in government contracts law, and as such he has been a frequent commentator on National Public Radio, especially in the aftermath of Hurricane Katrina. He is on the faculty of George Washington University Law School.

ALM, a leading media company serving legal and business professionals, appointed Steven W. Korn publisher of the Fulton County Daily Report, Georgia’s leading source of legal news and information, as well as related websites, magazines, specialty books, directories, and seminars. Mr. Korn, an attorney and member of the Georgia Bar, previously served as vice chair and chief operating officer for Cable News Network, Inc., overseeing all business functions for the CNN News Group worldwide and sitting on the executive committees of CNN and its corporate parent, Turner Broadcasting System, Inc. Before joining TBS, Mr. Korn was a litigator with the Atlanta law firm now known as Troutman Sanders. He is a member of the board of directors of the Brown Shoe Company and the Public Broadcasting Service, a trustee of Vassar College (from which he earned his bachelor’s degree) and The Schenck School, and serves on the advisory board for Schroder Venture Partners, LLC, and Alvarez & Marsal. Mr. Korn and his family reside in Atlanta.

Hawaii Attorney General Mark J. Bennett successfully argued Lingle v. Chevron U.S.A. Inc. before the United States Supreme Court. Justice O’Connor authored a unanimous decision, reversing the Ninth Circuit’s determination that a Hawaii commercial rent cap statute illegally worked a taking by failing to “substantially advance” a legitimate state interest. The Supreme Court repudiated the “substantially advance” test as a method for determining when legislation or regulation affects a regulatory taking.

Diane L. Currier, a partner with Goodwin Procter’s Trust and Estate Practice Group, has been elected a member of the board of the New England Chapter of the U.S. Fund for UNICEF. Ms. Currier is a member of the executive committee of the Federal Tax Institute of New England, the American Bar Association Tax Section, and the Boston and Massachusetts Bar Associations. As chair of Goodwin Procter’s Nonprofit and Charitable Organization Practice Group, Ms. Currier represents a large number of charitable organizations and foundations, providing tax advice to universities, research organizations, and other charities regarding their activities and investments. Ms. Currier’s compatibility with the efforts of UNICEF stems in part from her pro bono work, which includes support for a number of charities working in Tanzania, Lesotho, South Africa, and Honduras.

James L. (Jamie) Duke is general counsel of Account Solutions Group (ASG) in Amherst, New York. ASG specializes in third-party debt collection and its clients include three of the top ten credit card companies in the U.S.

Cecelia L. Fanelli was elected to Cornell’s President’s Council of Cornell Women.

Andrew S. Updegrove received the President’s Award for Journalism from the American National Standards Institute (ANSI). The President’s Award for Journalism recognizes outstanding journalistic work that helps to illuminate the role that standardization and conformity assessment activities play in improving the health and safety of Americans, while strengthening the competitiveness of U.S. business in a global marketplace. Mr. Updegrove is editor and publisher of the consortium’s Standards Bulletin, which offers a wealth of information on standards and standards setting, both online and in print. Mr. Updegrove is an attorney-at-law with Gesmer Updegrove LLP, a Boston-based law firm that specializes in representing technology clients.

Kevin J. Culligan is a partner in the intellectual property practice group at the New York office of King & Spalding LLP. Although he is active in all aspects of the firm’s intellectual property practice, he has focused over the past three decades on the litigation and trial of intellectual property matters—primarily patent infringement, trade secret, and unfair competition cases. Over the years, Mr. Culligan has served as lead and supporting counsel in dozens of matters and many trials in federal and state courts across the U.S. He has represented a number of large international companies in patent infringement actions involving diverse technologies, including Alcon Laboratories, Arrow International, Becton, Dickinson & Company, the Cornell Research Foundation and Bio-Rad Laboratories, Polaroid Corporation, Procter & Gamble, and Symyx Technologies. Mr. Culligan was named a member of the U.S. litigation team of the year in the June 2000 edition of Euromoney’s Managing Intellectual Property, and he has been selected by his peers for inclusion in The Best Lawyers in America. Mr. Culligan is a member of the American Bar Association, the New York Intellectual Property Law Association, and the Association of the Bar of the City of New York. A 1976 graduate of Colgate University, Mr. Culligan is admitted to practice in New York and is a member of the bars of the U.S. District Courts for the Eastern, Southern, and Western Districts of New York, the
Court of Appeals for the Federal Circuit, and the U.S. Supreme Court.

Preti Flaherty announced that Thomas (Tim) C. Platt has joined the firm as mergers and acquisitions director, strengthening the firm’s Business Law Practice Group. His practice focuses on business law and corporate mergers and acquisitions, drawing on his successful experiences as a principal, a business advisor, an investment banker, and a lawyer. Prior to joining Preti Flaherty, Mr. Platt led and advised companies for more than twenty years in corporate development and corporate finance activities, including acquisitions and divestitures, business alliances and ventures, placing debt and equity securities, secured debt and workouts, and strategic planning and organizational development. He has served companies in the telecommunications, wireless, software, technology, e-business, financial institutions, manufacturing, hospitality, and professional services sectors. Most recently, Mr. Platt served as a principal of Arete Capital Group, a boutique regional investment bank serving Northern New England, where he led the Software, Telecommunications and Technology Group. Mr. Platt resides in Hooksett, New Hampshire.

81 James E. Braza became president of Davis & Kuelthau in October. Mr. Braza is responsible for the overall management of the firm, the implementation of its strategic plan, and oversight of its budget and finances. He will also continue to service clients’ needs in litigation matters. Mr. Braza has been with Davis & Kuelthau since 1981.

Kevin W. Goering has joined the New York office of Shep- pard, Mullin, Richter & Hampton LLP as a partner in the Business Trial Practice Group. Mr. Goering, most recently head of Coudert Brothers Litigation Group in New York, specializes in First Amendment, intellectual property, and general commercial litigation. Mr. Goering has practiced media and publishing law extensively for more than twenty years. He advises publishers, authors, television and radio broadcasters, Internet service providers and journalists with respect to intellectual property issues, including defamation, privacy, copyright, trademark, rights of publicity, anti-dilution, and licensing issues. Mr. Goering has also handled a variety of litigation matters in state and federal court relating to trademarks, copyrights, franchising, licensing and trade secrets. Mr. Goering is a former chair of the New York State Bar Association’s Committee on Media Law.

Paul T. McBride writes: “Hi. Did you notice I live in Michigan but work in California? That’s the beauty of telecommuting. My firm is fully networked, so I can do most of my work from my home. I fly to California about twice a month. I moved to Michigan because of my wife’s job as a university professor.”

Luke T. Townsend was recently assigned to Merrill Lynch’s Midwest Region headquarters in Chicago as a financial advisor. His practice assists corporations, not-for-profit organizations, and wealthy individuals in managing their finances. Mr. Townsend teams with Merrill Lynch’s best consultants and advisors to design cost-effective solutions. He writes: “I look forward to seeing classmates at Reunion.”

Stephen W. Yale-Loehr has published an exhaustive study on the causes of the backlog of immigration cases in the nation’s circuit courts, along with two Second Circuit practitioners, John Palmer and Elizabeth Cronin. Mr. Yale-Loehr teaches immigration law at Cornell Law School.

82 Robert E. Andrews is serving in his ninth term in the U.S. House of Representatives, representing the First Congressional District of New Jersey, which includes Burlington, Camden, and Gloucester Counties. The popular Democrat was on the short list to complete the Senate term of Jon Corzine, who was elected New Jersey’s governor in November. Many Democrats have questioned the wisdom of invading Iraq, but not Mr. Andrews. The eight-term congressman from Camden County voted three years ago to authorize the use of force against Iraq and, despite deep misgivings about the Bush administration’s post-war planning, still feels it was the right decision given the threat Saddam Hussein posed. The son of a shipyard worker, Mr. Andrews embraces many traditional Democratic positions: labor protections, abortion rights, gun control, and environmental regulation. He has focused much of his energy on education initiatives, writing student-aid laws that have...
made college more affordable. However, he also is willing to side with Republicans on several key issues, from war to education reform. He voted to authorize the use of force against Iraq and backed President Bush's signature education program, the No Child Left Behind Act. Mr. Andrews is one of the House's most prolific members when it comes to sponsoring legislation, often filing more than 100 bills during the two-year session. His cooperation with some GOP leaders has led to progress on such issues as pension protections for workers.

Katherine Ward Feld joined Prudential Life Insurance in Newark, New Jersey, in May 2005 as vice president and corporate counsel/mutual funds. She lives in Short Hills, New Jersey, with her husband (and classmate), Jeffrey S. Feld, and their two children. She can be reached via email at katherinefeld@aol.com.

David N. Yellen is the new dean of the Loyola School of Law in Chicago, succeeding Nina S. Appel. Previously, Dean Yellen was the Max Schmertz Distinguished Professor of Law at Hofstra University, and was dean of Hofstra Law School from 2001 to 2004. As Hofstra’s dean, he played a critical role in improving the law school’s rankings in U.S. News and World Report by spearheading major fundraising initiatives, doubling the school’s new student applications, and improving the credentials of the law school’s incoming students. Dean Yellen has practiced law in Washington, D.C., and served as counsel to the Judiciary Committee of the U.S. House of Representatives.

In July, Jan H. C. van Zanen, LL.M., became mayor of the city of Amstelveen, The Netherlands. Mayor van Zanen, who previously lived and worked in Utrecht as city councilor, moved in the summer with his family to Amstelveen. In addition to serving as mayor, he is national chair of the Dutch liberal party VVD.

William J. Casazza has been named senior vice president and general counsel at Aetna. Mr. Casazza also will serve as a member of the office of the chair. Mr. Casazza has been Aetna’s deputy general counsel since 1997, and its corporate secretary since 1999. Before joining Aetna in 1992, Mr. Casazza was in private practice with Sullivan & Cromwell, a Wall Street law firm, specializing in corporate/securities law matters and mergers and acquisitions. Prior to that he was a certified public accountant with Ernst & Young.

John J. Zak was re-elected to the board of directors at Hodgson Russ. Mr. Zak is a partner in the Corporate and Securities Practice Group and active in the firm’s Canadian and international practices. He concentrates his practice in U.S. securities regulation and compliance, mergers and acquisitions, and corporate law and governance. With more than 220 attorneys practicing in all major areas of law, Hodgson Russ is among the 200 largest law firms headquartered in the United States.

Robert A. Zinn, chief operating shareholder of Miami, Florida-based Akerman Senterfitt, was featured in the November 2005 issue of The Metropolitan Corporate Counsel. Mr. Zinn, a former automobile dealership owner, specializes in corporate
merger and acquisition work in the automotive industry, and also oversees the operation of the firm's eight offices in Florida and Washington, D.C.

Rebecca Bell Butler is manager of corporate and legal affairs at Hyaluron, Inc., in Burlington, Massachusetts. Hyaluron, also known as Hyaluron Contract Manufacturing (HCM), is one of the fastest growing biotech companies in Massachusetts.

Samuel C. Cowley was elected to the board of directors of Matrixx Initiatives, Inc. (MTXX). His term expires at the 2006 annual meeting of stockholders. Mr. Cowley will be a member of the audit and corporate governance committees of the board. He currently serves as executive vice president and general counsel for Swift Transportation Co., Inc., and is a member of Swift's board of directors. Swift's trucking subsidiaries operate the largest fleet of truckload carrier equipment in the United States, with regional and transcontinental operations throughout most of North America.

Minnesota Governor Tim Pawlenty appointed Jonathan N. Jasper to the Tenth Judicial District judgeship. Judge Jasper is the managing partner of the law firm Jasper and Brandt in Anoka, Minnesota. He has been an attorney with the firm and its predecessors since 1994. He was an associate attorney with the Berglund and Varco law firm in Anoka from 1993 to 1994, and with the law firm of Rider, Bennett, Egan and Arundel in Minneapolis from 1987 to 1993. Judge Jasper is a Supreme Court-appointed member and vice-chair of the State Board of Public Defense. He is also a member of the Minnesota State Bar Association and the Anoka County Bar Association, where he was a member of the Executive Board. He had also served on the Twenty-first District Bar Association Ethics Committee. Judge Jasper lives in Andover, Minnesota, with his wife, Jenny, and their two daughters, Courtney and Casey Jo.

The Board of Directors of Delphi Corporation named David M. Sherbin of West Bloomfield, Michigan, vice president and general counsel. Mr. Sherbin also serves as the company's chief compliance officer. He becomes a member of the Delphi Strategy Board, the company's top policy-making group, and will report to chair and chief executive officer Robert S. “Steve” Miller. Mr. Sherbin most recently was vice president, general counsel, and secretary for Pulte Homes, Inc., based in Bloomfield Hills, Michigan. Prior to joining Pulte, Mr. Sherbin was senior vice president, general counsel, and secretary for Federal Mogul.

Kay C. Georgi ‘89 joined the Washington, D.C., office of Arent Fox as a partner in the firm’s International Practice Group. She was formerly a partner with Coudert Brothers LLP, where she practiced from 1989 to 2005. Ms. Georgi’s expertise in export control matters includes advising clients on U.S. and international laws relating to the export and import of defense articles, services and technologies, nuclear equipment and technologies and dual-use goods and technologies. She regularly represents clients before the Bureau of Industry and Security (BIS) of the Department of Commerce, the Directorate of Defense Trade Controls (DDTC) of the Department of State, and the Office of Foreign Assets Control (OFAC) of the Department of Treasury, and in trade remedy cases before the International Trade Commission, the U.S. Department of Commerce, and the U.S. courts.

Robert J. McDonough has been named Northeast Fiduciary Executive at JP Morgan Private Client Services.

The Seventh U.S. Circuit Court of Appeals appointed private criminal defense attorney Pamela Pepper to the bench in the U.S. Bankruptcy Court, Eastern District of Wisconsin. Judge Pepper will spend part of her time in the U.S. Bankruptcy Court Southern District of Illinois’ East St. Louis location. Judge Pepper had been a sole practitioner in the criminal defense practice of Pamela Pepper Attorney at Law SC in Milwaukee since 1997. After graduating from Northwestern University and Cornell Law School, Judge Pepper clerked for Judge Frank M. Johnson Jr. on the Eleventh U.S. Circuit Court of Appeals in Montgomery, Alabama. She previously served as an Assistant U.S. Attorney for the Northern District of Illinois from 1994 to 1997, and for the Eastern District of Wisconsin from 1990 to 1994. Judge Pepper is the incoming president of the Milwaukee Bar Association and has spent the past year chairing the board of governors for the State Bar of Wisconsin. She also served as an adjunct law professor at Marquette University Law School from 1999 to 2003. She is active in the community, serving on the board of directors for Horizon Inc., a halfway house for women with substance abuse problems, and the Federal Defender Services of Eastern Wisconsin, Inc.
90 John P. Feldman is now a partner at Reed Smith, where he is concentrating on intellectual property, advertising, marketing, promotion, and media law. Mr. Feldman joined Reed Smith from Collier Shannon Scott, where he was co-chair of the intellectual property group and practiced in the advertising and marketing law group.

Christine L. Richardson has joined the San Francisco office of Pillsbury Winthrop Shaw Pittman as a partner in the executive compensation and benefits practice. She provides advice on all aspects of employee benefits, and her clients range from start-up companies to well-established public companies. Ms. Richardson has presented before numerous employer and professional groups on employee benefits topics. She also was named a Northern California Super Lawyer in 2004.

Leigh Cameron Taggart has joined the Bloomfield Hills, Michigan office of Rader, Fishman & Grauer PLLC, a leading national intellectual property law firm, as a partner. Mr. Taggart was formerly general counsel, secretary and one of the senior executives managing Rexair Inc., a $100 million Michigan consumer products company that is a wholly-owned subsidiary of Jacuzzi Brands, Inc. Rexair manufactures consumer cleaning systems distributed in the United States, and in seventy-five foreign countries. Mr. Taggart was responsible for managing the registration and protection of a global trademark and patent portfolio valued in excess of $20 million, including significant U.S. and foreign intellectual property litigation. He is a member of the State Bar of Michigan and the New York State Bar.

92 Jeffrey W. Gutches was elected partner in Hunton & Williams’ Miami office, effective April 2005. Mr. Gutches’ practice focuses on class actions, complex commercial litigation, and international arbitration.

Min Han, a partner with the Seoul law firm of Kim & Chang, co-authored an article entitled, “Korea Introduces Best Practices for Securitization,” which was published in July 2005 in the International Financial Law Review.

David W. McGrath, a partner with the law firm of Sheehan, Phinney, Bass & Green, has been appointed a member of the New Hampshire Bar Association Ethics Committee, which is currently engaged in a thorough review of the ethical rules governing lawyers, clients and the judiciary system. Mr. McGrath is a member of Sheehan Phinney’s business litigation and labor, employment, and employee benefits practice groups. He represents clients in state and federal courts, arbitration and administrative proceedings and routinely handles trade secret, non-competition, predatory hiring, and fiduciary duty and discrimination cases.

93 Wendy M. Boucher Garrett published her first novel, Parvenue Throws a Party, in August. The novel, available through bookstores and at Amazon.com, is a comedy about a would-be social climber and the quirky family that saves her from herself. Ms. Boucher lives in Tampa, Florida, with her husband and daughter. She is full-time author and travel writer. She can be reached via her website: www.wendyboucher.com.

In May 2005, Christopher A. Garcia was made a partner of Seyfarth Shaw LLP. This appointment capped a successful year for Mr. Garcia. In February, he presented oral argument before the U.S. Seventh Circuit Court of Appeals in the case of Louis Nese v. Julian Nordic Construction. In April, Circuit Judge Terrance Evans filed a published opinion on the case affirming summary judgment for Mr. Garcia’s client, Julian Nordic. The Nese opinion is significant for “regarded as disabled” Americans with Disabilities Act claims in that the Seventh Circuit, for the first time, specifically rejected the Sixth Circuit opinion rendered in Ross v. Campbell Soup, upon which the plaintiff-appellant relied for his argument, in determining that Nese was not a victim of discrimination. The case was reported on the front page of the Chicago Daily Law Bulletin and also in BNA Inc.’s Daily Labor Report.

Christian E. Mammen has joined Day Casebeer Madrid & Batchelder LLP, a seven-year old firm that has built a strong record in complex intellectual property litigation. Mr. Mammen has significant expertise in patent and trade secret litigation for clients in the telecommunications, semiconductor, media, e-commerce, and financial services industries. Before joining Day Casebeer in 2005, Mr. Mammen practiced intellectual property litigation at Heller Ehrman LLP in San Francisco. Mr. Mammen attended Oxford University in England, where he earned a D.Phil. in Law. His doctoral dissertation, entitled Using Legislative History in American Statutory Interpretation, was published in 2002. In 1995-1996, he served as a law clerk to Hon. Robert R. Beezer on the United States Court of Appeals for the Ninth Circuit. Mr. Mammen is a member of the American Bar Association, and is co-chair of the Patent Litigation Subcommittee of the ABA’s Section of Litigation. He is also a member of the State Bars of California and Washington. He is admitted to practice before the United States Supreme Court, the U.S. Courts of Appeals for the Ninth and Federal Circuits, and U.S. District Courts in the Northern and Central Districts of California. He has taught pretrial civil litigation at UC Berkeley’s Boalt Hall School of Law, and is a frequent speaker on intellectual property issues.

Sujata Yalamanchili, a partner in Hodgson Russ LLP’s Real Estate and Finance Practice Group, was acknowledged as one of Buffalo’s young leaders by being named to Buffalo Business
First's fourteenth annual “Forty Under Forty” list for 2005. The forty honorees, nominated by Business First readers and selected by an independent committee, are chosen for their outstanding achievements as well as their commitment to the Western New York community. Ms. Yalamanchili's practice includes multi-state leasing, purchase/sale, and financing matters. She has served as the primary outside real estate counsel for national retailers, franchisees, and Fortune 500 firms, and has also represented regional and national developers and financial institutions.

Carlton A. Blake and wife Michelle welcomed their third child, Chazz, on August 2, 2004. (Chazz was born at home, inadvertently, with Carlton delivering. Thankfully, all went well.) Chazz joined sister Caira and brother Ethan. Mr. Blake is vice president, associate general counsel, and assistant secretary of the Connell Company, a privately-held company in Berkeley Heights, New Jersey. Mr. Blake has been working there since 1997.

John H. Chun of Seattle has joined the law firm Preston Gates & Ellis as a partner in the labor, employment and benefits practice group. Mr. Chun was recently named one of Puget Sound Business Journal’s “Forty Under Forty,” and for two consecutive years, 2004 and 2005, he has been listed as a “Super Lawyer” in Washington Law & Politics. Mr. Chun will focus on employment and commercial litigation, including class action defense work. He will also continue to represent clients in international legal matters, especially in representing Korean companies in litigation arising out of international business transactions. Mr. Chun began his legal career with Mundt MacGregor LLP in Seattle, and became a partner in the firm after six years. From 1994 to 1995, Mr. Chun served as a law clerk in Seattle for Hon. Eugene A. Wright of the United States Court of Appeals for the Ninth Circuit. He was a summer associate at Stoel Rives in Portland in 1994. Mr. Chun teaches a course on pretrial advocacy at the Seattle University School of Law, where he has been an adjunct professor since 2002. Mr. Chun also teaches at seminars for lawyers and other professionals. He serves as an arbitrator and mediator in civil disputes. He has been a Governing Council member of the King County Bar Foundation, Future of the Law Institute since 2004. Mr. Chun is active in the Asian American community, serving as executive board member and treasurer of the Asian Pacific Islander community Leadership Foundation. In 2003, he was president of the Korean American Bar Association of Washington. He is a current member of the National Asian Pacific American Bar Association, Asian Bar association of Washington and International Association of Korean Lawyers. Mr. Chun is AV Peer Review rated.

Blank Rome is pleased to announce that Timothy D. Katsiff, partner in the Corporate Litigation Practice Group, has been selected as a recipient of the Lawyers on the Fast Track by American Lawyer Media. Created by American Lawyer Media (ALM) and its Pennsylvania newspapers, the Legal Intelligencer and the Pennsylvania Law Weekly, the award recognizes Pennsylvania attorneys under forty who have demonstrated outstanding promise in the legal profession and have made a significant commitment to the community as a whole. Each year, recipients are chosen from peer nominations by a panel of judges who select individuals as future leaders of the state’s legal community. At Blank Rome, Mr. Katsiff concentrates his practice on complex business litigation, including securities fraud, securities broker/dealer litigation, business torts, employment contract disputes, and insurance coverage. Mr. Katsiff is also involved in trade secret, class action, patent, and environmental litigation. In addition, Mr. Katsiff has extensive experience in representing Fortune 50 telecommunications companies, Fortune 500 corporations, and major banks in a variety of complex litigation cases.

Jeremy P. Kleiman was named a member of the Saiber Schlesinger Satz firm in May.

Patrick J. Rao writes: “After years of threatening to do so, I have finally left the practice of law, and have accepted the position of Global Business Practices Officer for Carrier Corporation. In this new role I am responsible for Carrier’s compliance activities around the world. I am still living just outside of Syracuse, New York, where I run into fellow alumni from time to time.”

Hodgson Russ LLP announced that R. Kent Roberts has been elected a partner in the firm. Mr. Roberts concentrates his practice in intellectual property matters related to patents, trademarks, and copyrights. Mr. Roberts’ practice includes counseling
clients on protecting interests in electrical, software, and mechanical inventions.

Kathryn D. Bourn moved to Portland, Oregon, in May 2004, and is now splitting her time between her Astoria offices and working in Portland. Most of the time, she works out of her home, and goes to the office only to see clients.

Anil K. Chaddha accepted a position at General Electric corporate headquarters as Labor and Employment Counsel. He moved to Connecticut in summer 2005 with his wife, Grace, daughter Anjini, and dog, Teddy.

Teri L. Guarnaccia has been elected partner in the firm Ballard Spahr Andrews & Ingersoll, LLP. Ms. Guarnaccia is a member of the Business and Finance Department and is active in the firm’s Housing, Public Finance, Real Estate, and Transactional Finance Groups. She is based in the firm’s Baltimore office. Ms. Guarnaccia concentrates her practice in the area of public finance, and she also has extensive experience in real estate finance transactions. Ms. Guarnaccia is a member of the National Association of Bond Lawyers, the American Bar Association, and the Maryland State Bar Association.

Polly Samuels McLean married Andrew McLean in Alta, Utah on February 5, 2005. She writes: “We live in Park City, Utah. I am working for Park City Municipal Corporation, working in the city’s legal department. My husband is a product designer for outdoor equipment, and a ski mountaineer.”

Dana C. Pawlicki was promoted to director, Global Product Development, in Citigroup’s alternative investments division in New York at the end of 2004. Mr. Pawlicki had previously worked for the same division as vice president and assistant general counsel for three years. In his new role, he structures and develops new alternative investment products, and works closely with Citigroup’s sales channels with an emphasis on hedge funds and private equity funds. He and his wife Amy moved to Maplewood, New Jersey, last year, and recently acquired a Great Pyrenees dog.

In August, Jason D. Reichelt began work as a trial attorney in the Computer Crime and Intellectual Property Section of the Criminal Division of the U.S. Department of Justice. Previous to that, he served sixteen months as a Criminal Law Liaison in the Republic of Georgia for the American Bar Association Central European and Eurasian Initiative, working in the area of criminal legal reform.

Enrique Barber left his position last June as Director General of Legal Affairs and Senior Legal Official in the Mexican Department of the Interior to join the Mexican Department of Justice as the Attorney General’s Chief of Staff.

Aubrey L. Moss was made a partner with Paley, Rothman, Goldstein, Rosenberg, Eig & Cooper in Bethesda, Maryland. Mr. Moss focuses on family and domestic relations law and litigation, including divorce, property, support, and child custody matters.

Eric D. Yordy has taken on a new role at Northern Arizona University as director of New Student Programs. He is responsible for orientation, Welcome Weekend, Parents’ Association and University Open Houses. Mr. Yordy and his wife have two children, Josh and Caleb.

Marc E. Betinsky writes: “After two clerkships in New York City from 2001-2002, I practiced labor and employment law with Orrick, Herrington & Sutcliffe until March of 2004. That’s when I finally came to my senses and gave up the private practice of law; I accepted a career clerkship with U.S. Magistrate Judge Barry Seltzer in the Southern District of Florida. It’s nice to be back home near my family, although I broke my pledge that I’d ‘never return to Florida’! Speaking of family, my wife, Julie, and I had our first child—Adam Brayden—on March 9, one day before my birthday—he was a great birthday present!”

Ruth Ann Keene has joined the legal team at Autodesk Software after several years at Morrison and Foerster.

The wedding of Kathryn Lee Carpenter and Young Joon Kim, both of Union City, New Jersey, occurred on October 15 at the Living Desert Zoo and Gardens in Palm Desert. The couple will make their home in Union City, New Jersey. The bride is a child therapist at the Upper Manhattan Mental Health Center in Harlem, New York. The groom is a lawyer at Thatcher, Proffitt & Wood in New York.

In May, Daniel C. Savitt joined Pangea3 LLC, a start-up offshore legal outsourcing group, as vice president—Litigation and Research Services. Pangea3 delivers seamless, state-of-the-art outsourced legal and related services for law firms and in-house counsel. Mr. Savitt is based in the firm’s New York office, managing the litigation and research team in India and devoting substantial time to business development and ensuring quality control. His responsibilities take him to Mumbai several times a year for training, recruiting, and additional business generation.
William J. Strait of Scudder Law Firm, P.C., L.L.O., has been named a principal and board member of the firm. Mr. Strait practices in the areas of corporate finance, mergers and acquisitions, and corporate law, with a particular focus on debt financing. He also has represented issuers and investors in venture capital and private debt and equity investments.

Mitchell R. Edwards is currently president of the Cornell Club of Rhode Island and Bristol County, Massachusetts. He dedicates many volunteer hours to the local club and increasing its visibility in the Rhode Island area. All Law School graduates in the area are encouraged to get involved with the club. Alumni are invited to view the alumni events calendar through the www.alumni.cornell.edu website for exciting events all over the world.

Charlotte Thebaud Hemr and her husband, Kurt, welcomed daughter Louisa Thebaud Hemr on June 12. Ms. Hemr is an associate at Ropes & Gray in the Tax and Benefits and Corporate Practice Groups.

Amaryllis V. Seabrook moved from Los Angeles to Washington, D.C., where she works for Discovery Communications, Inc., in the Talent Division of Legal Affairs. She was formerly in-house counsel with the Screen Actors Guild.

Katherine Bell Steffens was chosen as a Rising Star in the banking law practice area in a poll of Super Lawyers conducted by Law & Politics magazine, and published in the September 2005 issue of Los Angeles Magazine. Ms. Bell is an associate in the Finance and Restructuring Group of the Corporate Department at Paul, Hastings, Janofsky & Walker LLP. Her practice focuses on commercial and corporate finance, including asset-based lending, subordinated debt financings, and other secured and unsecured lending.

Thomas G. Ciarlone was married to the former Amanda Marian Gambrell on July 22 in New Orleans. Mr. Ciarlone is an associate with the law firm of Shalov, Sonte and Bonner in New York, and is a member of the bar in Washington, D.C., and the states of New York and Connecticut. His wife is employed by the Dallas Convention and Visitor’s Bureau in the New York national sales office.

Ingrid Houghton is pleased to announce the birth of her second child, a son, Grayson Kepner Houghton, on August 15. He was 8 pounds, 12 ounces and 21 inches long. He joins big sister Amelia, who is two and a half years old. Ms. Houghton is a lecturer at Boston University School of Law, teaching the LL.M. legal research and writing course.


Roselle Gonzales and Jimmy Chatsuthiphan were married on February 19, 2005, in Culver City, California. Classmates in attendance were Peter A. Riesen, Erin S. Kubota, and Joyce N. Lee. The couple recently relocated to Bethesda, Maryland. Mr. Chatsuthiphan is a judicial law clerk to Hon. Bruce E. Kasold of the U.S. Court of Appeals for Veterans Claims in Washington, D.C.

Shane D. Cooper was quoted in a recent U.S. Department of Defense press release about a Naval Education and Training Command Law Education Program. The program provides selected Department of the Navy officers an opportunity to earn LL.B. or J.D. degrees, and serve the Navy and Marine Corps as career Judge Advocates. Mr. Cooper attended Cornell Law School under the Navy’s Law Education Program. He is assigned as the senior trial counsel for the Trial Services Office Southeast Detachment in Pensacola, Florida.

Formerly a legislative assistant to U.S. Representative Sherwood Boehlert, Sara N. Gray now is chief counsel for the House of Representatives Science Committee. Prior to joining the Science Committee staff, Ms. Gray worked as an attorney in Portland, Oregon, and served on the staff of the House Transportation and Infrastructure Committee.

Stephanie L. Sweitzer has joined the Chicago office of Baker & McKenzie LLP as an associate in the Compensation and Employment Litigation Practice Group.


Holly Kozlowski Austin joined Hancock & Estabrook LLP in Syracuse as an associate. Ms. Austin was a law clerk at Cornell’s Office of University Counsel. She previously served as pro se law clerk under the supervision of Hon. Gustave J. Di Bianco of the United States Federal Court for the Northern District of New York.

Juno Hwang writes: “I have finally landed in Hong Kong. I am working at Citigroup Property Investors as chief administrative officer and vice president.”
Amanda A. Meader has joined the Real Estate Practice Group at Bernstein Shur in Portland, Maine. Her practice will focus on commercial acquisitions, sales, and leasing. A resident of Freeport, Maine, Ms. Meader has experience in zoning, land use, and real estate matters affecting municipalities. She currently serves on the Town of Freeport Zoning Board of Appeals, and is a member of the Women’s Law Section of the Maine State Bar Association. She also is a member of the American, Maine, and Cumberland County Bar Associations.

Ana Teresa Rizo, LL.M., co-authored an International Financial Law Review article on institutional and legal structures in Central America, notably in Nicaragua, citing the inadequate nature of the country’s commercial code in regulating modern globalization of business in the region. Ms. Rizo has been a partner at FA Arias & Munoz since 2000. Her legal practice centers on intellectual property, corporate, tax, telecommunications, energy, banking and labor law, project financing, mergers and acquisitions, and privatizations. She has participated in the privatization of Nicaraguan energy companies, and has also advised international and local companies in project financing and in guarantee restructuring.

Thomas A. Carnrike joined the Syracuse office of Hiscock & Barclay, LLP, as an associate attorney. Mr. Carnrike concentrates his practice primarily on legal issues confronting regulated entities, and on real property tax matters for new project development and existing facilities. His areas of practice include environmental law, land use and zoning, telecommunications, and real property tax. Mr. Carnrike is a member of the New York State Bar Association.

Russell J. Edelstein joined the firm Choate, Hall & Stewart LLP in October 2005 as an associate in the firm’s Litigation Department and the Health Care Practice Group.

Tamara Y. Fountain has joined Lane Powell in Seattle as an associate in the Labor and Employment Department. Prior to joining Lane Powell, Ms. Fountain worked for the Seattle Police Department, both as a police officer and as a public affairs specialist.

Courtney H. Herz is an associate attorney at Sheehan Phinney Bass & Green. As a member of the firm’s Litigation Group, Ms. Herz will focus on commercial litigation, non-competition and confidentiality disputes and environmental litigation.

Thomas M. Schmid and his wife, Christina, are happy to announce the birth of their son, Eric Gregory, on October 13, 2005. Mr. Schmid writes: “Mother and baby are doing great and we are slowly adjusting to our new (very busy) family life! In the meantime we also moved into our new apartment in the Zurich area. There is plenty of room for guests and we would be happy to welcome anybody running ashore in Zurich or just passing through!”

The Indianapolis-based law firm Bose McKinney & Evans LLP announced that Mark J. Wuellner has joined the firm as an associate in the firm’s Business Services and Financial Institutions Groups. As part of his studies at Cornell, he studied abroad at the Université Paris 1 Panthéon Sorbonne with the Cornell Summer Institute of International and Comparative Law.

In Memoriam
Herbert A. Heerwagen ’34
Henry A. Mark ’35
Richard C. Mitchell ’38
Elizabeth S. McLellan ’39
Nelson C. Doland Jr. ’42
Robert Eugene Fischer ’42
Evan Squires Williams ’47
George H. Bailey ’49
Joel A. Scelsi ’50
Norman L. Hess ’51
Louis Z. Almasi ’52
James K. Peck ’57
Thomas R. Matias ’59
Arthur C. Croce ’66
Melvin Ditman ’71
Jeffrey S. Burns ’72

Editor’s Note: The alumni office receives information for the class notes section from various sources. All information is subject to editorial revision. Please be aware that the Forum is produced a few months in advance of when readers receive it. Class note information received after production has begun will be included in the next issue.

Send information you would like reviewed for possible inclusion in future issues of Forum to the alumni office at 382 Myron Taylor Hall, Ithaca, NY 14853 or via e-mail to alumni@lawschool.cornell.edu. The office can also be contacted by phone (607 255-5251) or fax (607 255-7193).

The career office prepares a monthly newsletter of job opportunities for experienced attorneys. Alumni interested in listing opportunities or seeking new positions may contact Judy Mather at 607 255-5873 for further information.
Richard D. Geiger  
*Associate Dean,  
Communications & Enrollment*

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*Illustrations*

Cayuga Press of Ithaca  
*Printer*

The editors thank the faculty, staff, and students of the Cornell Law School for their cooperation.

The *Cornell Law Forum* is published three times a year by the Cornell Law School.  
Business and editorial offices are located in Myron Taylor Hall, Ithaca, N.Y. 14853-4901 (phone: 607 255-7477; e-mail: ker8@cornell.edu).

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